

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

| | | |
|-----------------------------|---|-----------------------|
| ESTATE OF ANDREW DAVIS GOOD | : | |
| and KRISTI GOOD, | : | |
| | : | |
| Plaintiffs, | : | CIVIL ACTION |
| | : | |
| v. | : | |
| | : | DOCKET NO. 20-cv-1431 |
| BARBARA RODRIGUEZ-SANTANA, | : | |
| | : | |
| Defendant. | : | |

**STATEMENT OF UNDISPUTED FACTS IN SUPPORT OF
DEFENDANT DEPUTY SHERIFF BARBARA GUNNET’S MOTION FOR SUMMARY
JUDGMENT**

Defendant, Lancaster County Sheriff’s Deputy Barbara Gunnet (“Deputy Gunnet”) ¹ by and through her attorneys, MacMain, Connell & Leinhauser, LLC, respectfully submits this Statement of Relevant Material Facts as to which there is no genuine issue to be tried as follows:²

Introduction and Procedural History

1. Plaintiffs, the Estate of Andrew Davis Good and Kristi Good initiated the instant action by filing their initial Complaint on March 16, 2020, which named as Defendants Deputy Gunnet, Lancaster County, Sheriff Christopher R. Leppler, Akron Borough Police Officer Greg

¹ Plaintiffs name Defendant Barbara Gunnet by her maiden name, “Barbara Rodriguez-Santana” in their Complaint and First Amended Complaint.

² Note that Defendant is also separately filing Defendant’s Statement of Facts (DSOF) which will include both those facts to which all parties agree and are contained in the present Statement of Undisputed Facts (SOUF), and those additional facts that Defendant submits are material and uncontested – but to which Plaintiff does not agree based on relevance, materiality, accuracy, or some combination of all three.

For consistency and ease of reading, the present Statement of Undisputed Facts will be numbered sequentially, but will skip those numbered paragraphs that are contained in Defendant’s Statement of Facts that are not agreed-to as “joint” in the present document. There will also be an extra space provided when paragraphs are skipped.

Stone, Borough of Akron, Borough of Ephrata, and John Doe Defendants 1 - 30. *See*, ECF Doc. No. 1.

2. On June 9, 2020, Plaintiffs voluntarily dismissed Defendants Borough of Akron and Officer Greg Stone. *See*, ECF Doc. No. 18.

3. On September 10, 2020, Plaintiffs filed their Motion to Amend their Complaint. *See*, ECF Doc. No. 21.

4. On September 28, 2020, the Court granted Plaintiffs' Motion Seeking Leave to Amend their Complaint. *See*, ECF Doc. No. 25.

5. On September 28, 2020, Plaintiffs filed their First Amended Complaint, naming as a Defendant only Deputy Gunnet, and asserting two claims pursuant to 42 U.S.C. § 1983 – Deliberate Indifference under the Eighth Amendment and Excessive Force under the Fourth Amendment. *See*, ECF Doc. No. 29.

Initial Arrest of Andrew Good on April 14, 2018

6. On April 14, 2018, Andrew Good was taken into custody by Akron Borough and Ephrata Borough police officers on an outstanding Lancaster County warrant for violation of probation/parole. *See generally*, Ephrata Police Department Incident Report attached hereto as *Exhibit A*.

* * * * *

8. Once Good was subdued and taken into custody, he was transported by the arresting officers to the Wellspan Ephrata Community Hospital for examination. *See, Exhibit B* at page 8.

Initial Response by Deputy Gunnet to Ephrata Community Hospital

9. Deputy Gunnet is a Sheriff's Deputy for Lancaster County, and has been so

employed since February 2016. *See*, Deputy Gunnet's deposition attached hereto as *Exhibit B* at page 7.

10. On April 14, 2018, Deputy Gunnet was working as the on-call deputy. *See*, *Exhibit B* at pages 13-14.

11. As part of her duties as the on-call deputy, Deputy Gunnet, responded to calls from dispatch to pick up and transport arrested individuals to the Lancaster County Prison. *See*, *Exhibit B* at pages 14-15.

12. On April 14, 2018, Deputy Gunnet was dispatched to the Ephrata Community Hospital to pick up and transport Good to Lancaster County Prison following his arrest by Ephrata Borough and Akron Borough police officers. *See*, *Exhibit B* at pages 15-16.

13. At approximately 5:00 p.m. on April 14, 2018, Deputy Gunnet arrived at the Ephrata Community Hospital to take custody of Good and to transport him to Lancaster County Prison. *See*, *Exhibit A* at page 16.

* * * * *

Good's Resistance and Flight from Custody

* * * * *

31. Good continued running away from Deputy Gunnet, across a two-lane road, and into the nearby woods surrounding Cocalico Creek. *See*, *Exhibit B* at page 51 and *Exhibit C*.

* * * * *

Good's Continued Flight Into Woods and Cocalico Creek

33. Deputy Gunnet lost sight of Good when he entered the woods. *See*, *Exhibit B* at page 52.

34. Officer Beth Rivera of the Ephrata Borough Police Department responded to the

scene and began searching for Good with Deputy Gunnet. *See, Exhibit B* at page 53, and Deposition Transcript of Officer Beth Rivera attached hereto as *Exhibit D* at pages 12-15.

35. Deputy Gunnet and Officer Rivera located Good by the Cocalico Creek bank. *See, Exhibit B* at page 53 and *Exhibit D* at page 18.

36. When Deputy Gunnet and Officer Rivera arrived at the bank of Cocalico Creek, Good was already in the water, away from the creek bank. *See, Exhibit B* at page 57 and *Exhibit D* at page 21.

37. Good submerged in Cocalico Creek, and Deputy Gunnet and Officer Rivera lost sight of Good. *See, Exhibit B* at page 58 and *Exhibit D* at page 30.

38. Officer Rivera removed her duty belt and attached gear and entered the water in an attempt to rescue and regain custody over Andrew Good. *See, Exhibit D* at page 30.

39. Deputy Gunnet remained on the creek bank as she and Officer Rivera were the only two officers on location at the time Officer Rivera entered the water. *See, Exhibit B* at page 60.

40. Additional officers responded to the scene and entered the water in an attempt to locate Good. *See, Exhibit D* at page 32.

41. Officers continued their search for Good in Cocalico Creek until he was eventually discovered, deceased. *See, Exhibit D* at page 32.

42. No officers deployed their tasers at Good while he was in the water. *See, Exhibit B* at page 66.

43. Following examination by Forensic Pathologist, Dr. Wayne K. Ross, Good's cause of death was determined to be "fresh water drowning," with the manner of death being "accidental." *See, Forensic Pathologist's Report*, attached hereto as *Exhibit E*, at page 13.

* * * * *

MacMain, Connell & Leinhauser, LLC

Dated: December 30, 2020

By: /s/ David J. MacMain
David J. MacMain, Esquire
Andrew J. Davis, Esquire
Attorney I.D. No. 59320/316460
433 W. Market Street, Suite 200
West Chester, PA 19382
*Attorneys for Defendant Lancaster County
Sheriff's Deputy Barbara Gunnet*

CERTIFICATE OF SERVICE

I, David J. MacMain, hereby certify that on this 30th day of December, 2020, a copy of the foregoing *Statement of Undisputed Facts In Support of Defendant's Motion for Summary Judgment* was served upon the following via ECF notification:

Graham F. Baird, Esquire
Two Penn Center
1500 JFK Boulevard, Suite 1240
Philadelphia, PA 19102
Attorney for Plaintiffs

Respectfully submitted,

MacMain, Connell & Leinhauser, LLC

BY: /s/ David J. MacMain
David J. MacMain, Esquire
Andrew J. Davis, Esquire
Attorney I.D. Nos. 59320/316460
433 W. Market Street, Suite 200
West Chester, PA 19382
Tel: (484) 318-7703
*Attorneys for Defendant Lancaster County Sheriff's
Deputy Barbara Gunnet*

EXHIBIT A

Incident Report

EPHRATA POLICE DEPARTMENT
124 SOUTH STATE ST
EPHRATA, PA 17522

Phone: (717)738-9200

Approved Report ☒ **MATTHEW E LUCKY**

Municipality **EPHRATA BOROUGH (408)**
Report Type **INCIDENT**

Incident #

4101661B18

Reference #

1804017136

Location **3 N. NINTH ST - AKRON 17501**

Landmark

Premise

Point of Entry
Meth. of Entry

Patrol Zone

Grid

Reported **04/14/2018 @ 16:30 (Sat)**

Discovered **@**

Last Secure **@**

Received **Dispatched**

Arrived **16:31** **Cleared** **16:58**

Status

Disposition

Clear Date

Badge **612 - OFC. DANIEL M ALBAUGH**

| | |
|----------------------|----------------------|
| Criminal Code | Title : |
| | Section : |
| | Sub-Section : |
| | Description : |

| | |
|------------------|--|
| UCR Codes | 4105 ASSIST - OTHER AGENCY CASE |
| | |

Additional Officers**Officers**

419 **SGT. ERIC M SCHMITT**
802 **OFC. BRYCE DAVIS**

Date

/ /
/ /

Activity

Investigating Officer

Signature

Date

Approving Officer

Signature

Date

EPHRATA POLICE DEPARTMENT

Printed by: NADINE R CARPENTER (04/27/2020 03:52:40 PM)



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Persons Involved**GOOD, ANDREW DAVIS**

Arrest Date :

Disposition Date :

| Role | Incident Classification | How Charged | Disposition |
|------------------|---------------------------------|-------------|-------------|
| OTHER (NOI, ETC) | 4105 ASSIST - OTHER AGENCY CASE | | |

Alias
 Age-DOB [REDACTED] Height 5'09"
 Race WHITE Weight 162 Home Addr [REDACTED]
 Sex MALE Hair BROWN
 Ethnicity NON-HISPANIC Eyes HAZEL
 Marital Stat SINGLE Build THIN Home Ph # [REDACTED]
 Residency Resident Complex LIGHT Work Ph # [REDACTED]
 SSN [REDACTED] Cell Ph # [REDACTED]
 Gang Other Ph # [REDACTED] No Photo
 Tattoo L SHLD, R SHLD, L BREAST, L HAND
 Clothing E-Mail
 Employer
 GBM Id
 -Entered / /
 -Released / / Occupation UNEMPLOYED
 OLN/State [REDACTED] Addl Addr [REDACTED]
 Injury [REDACTED]

Main Narrative
OFC. DANIEL M ALBAUGH (612)

04/14/2018 16:30 - 612 OFC. DANIEL M ALBAUGH

SOURCE OF ACTIVITY:

On 04/14/2018 at 1631 hours, I responded to the address of 3. N. Ninth St. Akron Borough with Sgt. Schmitt and Officer Davis to provide mutual aid to Akron Borough Police Officer Rogers to serve a Lancaster County bench warrant on Andrew Davis Good (DOB: [REDACTED]).

SCENE DESCRIPTION:

This incident occurred at the address of 3 N. Ninth St. Akron Borough. This address is a multi-unit apartment building. Good was initially located on the north side of the building on an exterior deck on the second floor of the building.

OFFICER OBSERVATIONS AND ACTIONS:

I proceeded to the west side of the apartment complex with Sgt. Schmitt while Officer Rogers and Officer Davis entered from the east side and located Good on the north side of the building. I heard Officer Davis transmit on his radio that Good was on the second-floor deck. I began to travel to the north side of the building. As I rounded the corner of the building, I heard what sounded like a physical altercation. I approached the stairwell that Officer Rogers and Davis had traversed, and I observed Andrew Good run down the stairs and travel west towards me. Upon seeing me, Good changed direction and headed north.

As I began to pursue Good, I heard the sound of a Taser being discharged. Good was not impacted by the Taser which was later determined to have been fired by Officer Rogers. Good continued to run down a small alleyway and across N. Ninth St. in a southern direction. I chased Good across Main St. and into the yard of 820 Main St. I subsequently withdrew my Taser and

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fired it at Good's back. The Taser was ineffective, and it is unknown if the Taser probes made contact. I attempted to drive stun Good with the Taser which was unsuccessful at stopping Good. I reholstered my Taser and continued to chase Good to the Rear of the property where I was able to take Good to the ground. I secured Good on the ground until Officer Rogers, and Officer Davis arrived. While on the ground, Good continued to actively resist. I again advised Good that he was under arrest and told him to stop resisting. Good refused to comply and continually tried to stand up and pull his arms towards the center of his body. Officer Rogers, Davis, Sgt. Schmitt and Officer Martin assisted in putting Good in handcuffs and leg shackles. While Good was being restrained, he repeated that "He's not going back go jail" and "I cant go back". I escorted Good to Officer Martin's patrol vehicle with the assistance of Officer Davis.

I subsequently returned to the front yard of 820 Main St. Akron, where I collected the discharged Taser leads. I was unable to locate the Taser probes.

I completed both a Use of Force Report and Taser Use Report for this incident. I provided each report to my supervisor, Sgt. Schmitt.

EVIDENCE:

1 - I submitted one Taser cartridge Serial #: C4102X410 into the Beast Evidence System as evidence.

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Supplemental Narrative
OFC. BRYCE DAVIS (802)

SUPPLEMENTAL 04/15/2018 12:44 - 802 OFC. BRYCE DAVIS

SUPPLEMENTAL REPORT #4101661B18
OFFICER DAVIS

SOURCE OF ACTIVITY:

On 4/14/18 at approximately 1630 hours I responded to 3 N. 9th St. Akron, PA to assist with a warrant service for Andrew Good.

SCENE DISCRPTION:

3 N. 9th St. Akron, PA is a vinyl sided apartment building with 3 floors. The warrant service was initiated for an apartment on the second floor. The foot pursuit started on the deck of the second floor to the rear of the building and around a small building to the rear on the north side of the apartment building. The pursuit then crossed over 9th St. and toward a parking lot and then crossed Main St. The pursuit ended behind the brick Akron Insurance Associates building that is located on the south west corner of the intersection of 9th St. and Main St. in Akron.

OFFICER OBSERVATIONS/ACTIONS:

I parked my patrol vehicle on Main St. Akron between 9th St. and 10th St. I approached on foot to the east side of the apartment building. I followed Akron Police Department (APD) Officer (Ofc.) Rogers down the driveway and to the rear of the building. Ofc. Rogers and I walked around the back corner of the building with approximately 15+ feet between us and the building to look up the rear stairs to the back door on the second floor. I did not see anyone at the top of the stairs on the deck area.

As Ofc. Rogers ascended the stairs, about three quarters of the way to the top he started to talk to someone. I could not hear what was being said. As I got near the top of the stairs I saw Ofc. Rogers reach for a male's arm and state that the male, who I then recognized as Andrew Good, was under arrest due to a bench warrant through the Lancaster County Sheriff's office. Good then pulled away from Ofc. Rogers and they both moved toward the door that lead into the apartment building. Ofc. Rogers attempted to gain control of Good's arms and Good pushed Ofc. Rogers into the railing of the deck.

I was on the top step when Good charged at me with his shoulder and pushed me into the wall. I attempted to grab Good's arm but he was already pulling away from me and was running down the stairs. Ofc. Rogers followed Good down the stairs with me behind him. At the bottom of the stairs Ofc. Rogers deployed his Taser but the device failed to incapacitate Good. Good ran around a small building on the north side of the apartment building. Good then crossed over to the west side of 9th St., ran south, crossed Main St., and went behind the brick Akron Insurance Associates building. As we were running south Ephrata Police Ofc. Albaugh joined the foot pursuit and gave Good commands to stop running because he was under arrest. Ofc. Albaugh was able to catch Good and assisted him to the ground to be handcuffed. Good continued to resist arrest and would not give up his hands to be placed in handcuffs. I placed one handcuff on Good's left wrist and handed it to Ofc. Albaugh. I grabbed Good's legs and pulled them straight to get him flat on the ground. I tried to keep Good's legs under control while Ofc. Albaugh and Ofc. Rogers attempted to place the handcuffs on Good's wrists. Good continued to resist arrest while Ofc. Albaugh continued to give commands to stop resisting and that Good was under arrest. We were able to secure Good's hand in the handcuffs and Ephrata Police Ofc. Martin arrived with leg shackles. I assisted Ofc. Martin with placing the leg shackles on Good's legs.



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After we were able to get Good handcuffed I assisted with searching Good for any weapons or illegal items. I found multiple pieces of paper and Good's cell phone. All items were turned over to Ofc. Rogers immediately.

I along with Ofc. Albaugh walked Good to Ofc. Martin's patrol vehicle and secured him in the rear passenger seat.

After securing Good, I assisted with looking for the Taser wires and probes. I found a single Taser wire and two green doors to the cartridge Ofc. Rogers deployed. I returned these items to Ofc. Rogers.

I cleared the scene at approximately 1500 hours.

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Supplemental Narrative
SGT. ERIC M SCHMITT (419)

SUPPLEMENTAL 04/15/2018 16:16 - 419 SGT. ERIC M SCHMITT

SOURCE OF ACTIVITY:

On 04-14-18 at approximately 1530hrs. Officer Rodgers with Akron Borough Police contacted me regarding the location of Andrew Good; DOB: [REDACTED] Rodgers requested assistance with attempting to locate Good to take him into custody regarding an outstanding Lancaster County Sheriff's warrant for probation/parole violation.

OFFICER OBSERVATIONS AND ACTIONS:

Off. Rodgers advise he received information that Andrew Good would be at an apartment building at 3 N. 9th Street, Akron around 1630hrs. Off. Rodgers stated he would like the Ephrata Police Departments assistance with possible apprehension if he is found at the address.

After reconfirming the current status of the Lancaster Sheriff's warrant, Off. Davis, Albaugh and I met Off. Rodgers at 1630hrs in Akron Borough along Main St just east of N. 9th Street intersection. Off Rodgers reported he received updated information that Andrew Good was currently at the back/rear of the apartment building sitting on a small porch at the top of a outside wooden stairway. The stairway is a common stairway with a door at the top which accesses into a hallway for second floor apartments at 3 N. 9th St.

I advised Off. Davis to accompany Off. Rodgers to the rear stairway and Off. Albaugh and I will positioned ourselves on the sidewalk along 9th St to the southwest of the build. I moved to a small walk way located between the apartment building and adjoining property building so as to observed Off. Davis at the stairway. I peered around the apartment building and Off. Davis motioned that he and Off. Rodgers were walking up the stairway. I decided to reposition myself to the interior ground level hallway and stairway in the event Good fled through the building in an attempt to flee out the ground level door. I observed that Off. Albaugh move back to the Main Street side of the building.

I walked inside the building and immediately heard muffled noises coming from the second floor area so I worked my way up to the second floor where I did not locate any person(s) or officers. I went to a door which accessed the rear wooden porch and stairs and upon exiting the building I did not locate Off. Davis or Rodgers. I did find a young female standing on the stairway and asked where the police officers were but the female did not answer. I noticed more people on a side porch near 9 N. 9th St and as I approached they stated the officers tried to taser the guy, apparently missed so they chased him out onto 9th St. I moved out to 9th street and did not see any officers but noticed numerous citizen in Weiser's Grocery store parking lot looking across Main Street (south) toward another parking lot and Playground Alley area.

I ran toward the parking lot (rear 820 Main St) and Playground Alley and observed a few people standing, looking up along a drive that went back out to S. 9th St. The on-lookers pointed toward S. 9th St and stated they are up there. I located Off. Albaugh, Davis and Rodgers holding a shirtless male on the ground. The shirtless male was struggling stating something to the effect of, fuck you I'm not getting cuffed, get the fuck off me. I approached and immediately recognized the male as Andrew Good. Good observed me approach and pleaded with me, "Schmitt tell them to let me go" of which I advised Good to

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just calm down so we can handcuff him. I advised him several times to stop struggling and resisting, to just relax so we can get his arms back to handcuff him. He continued to keep his right arm up and out above his head refusing to let Off. Rodgers bring his arm down behind his back. Good continued to scream and yell that he was not going back to jail, fuck you guys, let me go, I'm not getting handcuffed. I told him several times to calm down, relax that we would not going to let him go he just needed to allow us to handcuff him.

During the continued attempts to handcuff Good two other males approached, one with a red shirt who Good called out to as Denny. Good said several times tell these guys to let me the fuck go (or similar words). The male in the red shirt (Denny) started to yell to Good to stop struggling and let the cops handcuff you, I told you to turn yourself in, stop fighting with them (or similar words). The male in the red shirt, as we continued to struggle with Good, continued to try and convince Good to comply with the police.

Off Rodgers and I were finally able to maneuver Good's right arm to his back area close enough to his left arm/hand so as to complete the handcuffing process. Two sets of hand cuffs were used so as to not have to completely maneuver Good's hands/arms to close to each other while completing the cuffing process. Once the handcuffs were securely fastened I met with Off. Martin in front of 820 S. 9th St for leg shackles; Off. Martin and Davis applied the shackles to Good's ankles. Good was escorted to Off. Martin's vehicle and Off. Rodgers requested assistance with transporting Good to the Wellspring Ephrata Community Hospital for medical treatment.

Off. Albaugh, Davis and I returned to the wooden stairs area where we recovered the wires and green plastic taser cartridge "doors". Off. Albaugh returned to the area where he deployed his taser and recovered his cartridge and taser wires.

I responded the hospital to check on Off. Rodgers, Martin and Andrew Good's status. I found Off. Rodgers at the hospital guarding Good who was now handcuffed to the front of his body and still wearing the leg shackles. Off. Rodgers advised he would be OK guarding Good and thanked us for the assistance.

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Supplemental Narrative
OFC. SCOTT P. MARTIN (705)

SUPPLEMENTAL 04/18/2018 06:45 - 705 OFC. SCOTT P. MARTIN

Officer Observations/Actions:

On Saturday 4/14/18 at approximately 1640hrs, I responded to the area of 3 N. 9th Street in Akron to assist other units who were already on scene and had just served a warrant on Andrew Good. I began to respond initially after hearing units on our tac channel sounding as though Good was not being cooperative. While enroute, Sgt. Schmitt requested that a unit bring a pair of shackles for Mr. Good.

On arrival, I located units to the south side of 820 Main Street. I retrieved a pair of shackles from the trunk of my cruiser (8217) and responded to their location. I observed good face-down with Officer Rogers of Akron PD and Officer Albaugh on top of him attempting to restrain him. I could hear officer Albaugh advising Good to stop resisting. I placed one shackle/cuff on each ankle to aid in securing Good's feet/legs. They were double-locked and checked for tightness. Good was not wearing a shirt and I could observe that he had scrapes on his head as well as different areas of his body. I was advised by Officer Albaugh that Good fled on foot and a brief foot-chase ensued. Good is known to me to run from police from dealings in the past. At 1644hrs, I advised LCWC/dispatch that we had a prisoner in custody.

Good was placed into the back of my patrol car. After discussing the issue with Officer Rogers of Akron, Sgt. Schmitt advised to transport Good to our department to await the Sheriff's Department due to already having another prisoner there awaiting transport by the duty deputy. At 1647hrs, activated the in-car video to record the transport. I advised LCWC that I was enroute to our station with Good.

Immediately after beginning transport, Good began complaining of severe pain in his left shoulder. He repeated several times that his shoulder hurt and I asked him if he needed or wanted medical attention to which he replied, "yes". I advised Sgt. Schmitt of his request for medical treatment and suggested that he be transported directly to Ephrata Community Hospital (ECH) rather than to station and call an ambulance. He advised he would have to check with Officer Rogers due to Good being their prisoner. Officer Albaugh advised that he was with Officer Rogers and that Officer Rogers had approved transporting directly to ECH. I advised LCWC at 1650hrs that I was now transporting Good to ECH and requested that they notify them that we were enroute.

I arrived at ECH with Good at 1653hrs and escorted him inside and was directed by staff to a room just inside the entrance. Good laid on the bed and awaited treatment. Once in the room, Good began asking to be handcuffed in the front due to the pain in his shoulder. I suggested he roll to his right side and advised that he would need to await Officer Rogers for him to make the decision about how he was handcuffed.

Officer Rogers arrived at approximately 1700hrs and met us in Good's room. Good asked Officer Rogers if could move the handcuffs the front. Officer Rogers agreed and moved the handcuffs to the front. He was still wearing two sets of cuffs at the time. Officer Rogers kept both sets of cuffs on his hands after moving them to the front. Good was then preliminarily checked by the doctor who ordered X-rays. I heard the doctor ask Good if he had been drinking and Good replied that he had not stopped drinking since the night before.

I remained on scene and assisted ER staff and Officer Rogers with escorting Good to the X-ray area and back to the room. Good remained handcuffed and shackled in the ER bed the entire time. At approximately 1745hrs, I left the hospital after making sure Officer Rogers did not need anything. Officer

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Rogers advised that he was fine and was in the room with Good who remained handcuffed and shackled as I left.

EXHIBIT B



Deposition of:
Barbara Gunnett

August 17, 2020

In the Matter of:
**Estate of Andrew Davis Good v.
Rodriguez-Santana, Barbara**

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888.777.6690 | cs-midatlantic@veritext.com | 215-241-1000

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

- - -

ESTATE OF ANDREW DAVIS :
GOOD, :
Plaintiff, :
v. : DOCKET NO. 20-1431
BARBARA RODRIGUEZ-SANTANA, :
LANCASTER COUNTY, :
CHRISTOPHER LEPLER, :
BOROUGH OF EPHRATA, :
Defendants. :

- - -

Monday, August 17, 2020

- - -

Oral Deposition of BARBARA GUNNETT, held
in the Law Offices of MAC MAIN LAW GROUP, LLC,
located at 433 West Market Street, Suite 200,
West Chester, Pennsylvania, commencing approximately
at 11:45 a.m. on the above date before Holly J.
Cross, a Registered Professional Reporter and Notary
Public.

- - -

VERITEXT LEGAL SOLUTIONS
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1801 Market Street, Suite 1800
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18 Counsel for Defendant
Borough of Ephrata

19
20 ALSO PRESENT:

21 Kristi Good
22
23
24

I N D E X

- - -

| | |
|---------------------|-----------------|
| Testimony of: | BARBARA GUNNETT |
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| By Mr. MacMain..... | 66 |

E X H I B I T S

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(None offered.)

DEPOSITION SUPPORT INDEX

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REQUEST FOR PRODUCTION OF DOCUMENTS:

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STIPULATIONS:

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QUESTIONS MARKED:

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(None)

BARBARA GUNNETT

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1 (It is hereby stipulated and
2 agreed by and among counsel for the
3 respective parties that reading, signing,
4 sealing, certification and filing are
5 waived and that all objections, except as
6 to the form of the question, be reserved
7 until the time of trial.)

8 - - -

9 BARBARA GUNNETT, having been duly sworn,
10 was examined and testified as follows:

11 - - -

12 EXAMINATION

13 BY MR. BAIRD:

14 Q Good morning. My name is Graham Baird,
15 and I represent Kristi Good and the Estate of Andrew
16 Good in a lawsuit that's been filed against you and
17 others arising out of an incident that occurred back
18 on April 14th of 2018. Today we're here for your
19 deposition.

20 Could you state your name for the record,
21 please?

22 A Barbara Gunnett.

23 Q Ms. Gunnett, have you ever been deposed
24 before?

BARBARA GUNNETT

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1 A I have not.

2 Q Okay. You were present for Ms. Good's
3 deposition; correct?

4 A Correct.

5 Q Okay. And your attorney, Mr. MacMain,
6 had given Ms. Good some instructions about
7 depositions, and you observed the process. Would
8 you like me to go over some instructions for you?

9 A I don't believe it's necessary.

10 Q All right. If you need to -- just one
11 thing: If you need to take a break for any reason,
12 please tell me, and we'll do that. Okay?

13 A Okay.

14 Q Have you ever been known by any other
15 names?

16 A Yes.

17 Q What other names?

18 A My maiden name, Barbara
19 Rodriguez-Santana.

20 Q And at the time of this incident in 2018,
21 you were known as Barbara Rodriguez-Santana; is that
22 accurate?

23 A Yes.

24 Q And who do you currently work for?

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1 A I work for the Lancaster County Sheriff's
2 Department.

3 Q And what is your current rank or job
4 title?

5 A Deputy sheriff.

6 Q Have you ever worked for any other law
7 enforcement agencies?

8 A Yes, I have.

9 Q What other law enforcement agencies?

10 A Same capacity but with Dauphin County.

11 Q Can you say that again? I'm sorry.

12 A Dauphin County as a deputy sheriff.

13 Q Okay. Any other law enforcement
14 agencies?

15 A No.

16 Q How long have you worked for the
17 Lancaster County Sheriff's Department?

18 A Since February of 2016.

19 Q And when did you work for the Dauphin
20 County Sheriff's Department?

21 A From October of 2014 until February of
22 2016.

23 Q Why did you leave the Dauphin County
24 Sheriff's Department?

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1 A Because I was residing in Lancaster
2 County.

3 Q And can you explain that for me, why that
4 prompted you to leave the Dauphin County Sheriff's
5 Department?

6 A I wanted to avoid the commute for work,
7 so I found job where I currently was living.

8 Q Okay. And your name change was
9 associated with you being married?

10 A Correct.

11 Q And when did that happen?

12 A That happened in October of 2018.

13 Q Okay. And what is your husband's name?

14 A Is that relevant?

15 MR. MAC MAIN: You can give his first
16 name.

17 THE WITNESS: Okay. First name Shawn.

18 BY MR. BAIRD:

19 Q S-H-A-W-N?

20 A Yes.

21 Q Is Shawn Gunnett employed in law
22 enforcement?

23 MR. MAC MAIN: You can answer that.

24 THE WITNESS: Yes.

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1 BY MR. BAIRD:

2 Q And where is he employed?

3 A Lancaster.

4 Q Is he employed with the Lancaster County
5 Sheriff's Department?

6 A He's not.

7 Q Can you tell me what agency or police
8 department he is employed with?

9 MR. MAC MAIN: You can answer that.

10 THE WITNESS: Lancaster city.

11 BY MR. BAIRD:

12 Q Okay. Besides this lawsuit have you ever
13 been sued before?

14 A I have not.

15 Q Okay. Have you ever been subject to a
16 complaint, a citizen's complaint, involving
17 excessive force?

18 A I have not.

19 Q Have you ever been suspended or
20 disciplined by the Lancaster County Sheriff's
21 Department?

22 MR. MAC MAIN: Related to anything
23 involving a citizen?

24 MR. BAIRD: Just a general question.

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1 MR. MAC MAIN: Well, I'm going to object
2 to that unless it has to do with some kind of
3 mistreatment of a citizen or dishonesty. I'm going
4 to limit the question to that.

5 MR. BAIRD: Well, you can't limit the
6 question.

7 MR. MAC MAIN: Well, I am.

8 MR. BAIRD: You're going to instruct her
9 not to answer that question?

10 MR. MAC MAIN: If she was disciplined for
11 something unrelated to mistreatment of citizens or
12 dishonesty, she's not going to answer it.

13 MR. BAIRD: Okay. So just let the record
14 show that Mr. MacMain has instructed his client not
15 to answer my question.

16 BY MR. BAIRD:

17 Q Have you ever been suspended or
18 disciplined arising out of any citizen's complaint?

19 A No.

20 Q All right. You were interviewed several
21 times in connection with this incident involving
22 Andrew Good; correct?

23 A I gave two interviews.

24 Q All right. My understanding is that one

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1 of the interviews occurred on the night of the
2 incident; correct?

3 A Correct.

4 Q And you gave that interview to James
5 Zahm; is that right?

6 A Correct, county detective.

7 Q Can you say that again? I couldn't hear
8 you.

9 A County detective.

10 Q Okay. And then you gave another
11 interview to someone at the sheriff's department; is
12 that correct?

13 A Correct.

14 Q Okay. And that was Lieutenant Shaffer;
15 is that right?

16 A Correct.

17 Q And my understanding is that interview
18 with Lieutenant Shaffer occurred over two separate
19 days; is that right?

20 A Yes.

21 Q All right. Did you give any other
22 statements or interviews concerning this incident to
23 anyone else?

24 A I did not.

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1 Q Did you have an opportunity to review
2 your statements or interviews prior to your
3 deposition here today?

4 A I have, yes.

5 Q Okay. And was there anything contained
6 in those interviews that you found incorrect or
7 untruthful?

8 A No.

9 Q Okay. So the information that you
10 provided to James Zahm and Lieutenant Shaffer was
11 true and accurate at the time; correct?

12 A Correct.

13 Q Okay. Were you placed on an
14 administrative leave as a result of the
15 investigation involving Mr. Good's death?

16 A Yes.

17 Q And how long were you on administrative
18 leave, if you can recall?

19 A Probably like less than 30 days.

20 Q And that was an administrative leave with
21 pay; correct?

22 A Correct.

23 Q Have you ever been placed on any other
24 administrative leaves?

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1 A No.

2 Q Okay. And after you returned to the
3 sheriff's department, were you under any kind of
4 restrictions or conditions of your return to work as
5 a sheriff's deputy?

6 A No.

7 Q And to this day you are performing all
8 the duties expected of you to be a sheriff's deputy
9 for Lancaster County?

10 A Yes.

11 Q Have you ever filed a lawsuit against
12 anyone?

13 A I have not.

14 Q Okay. Now, on the date of this incident,
15 tell me what you -- tell me what you did on the date
16 of the incident.

17 A Prior to the incident itself or...

18 Q If you could, why don't we start with why
19 were you going to the WellSpan Ephrata Hospital?

20 A Okay. I was the on-call deputy that
21 week, and that was on a Saturday. I started at
22 12:00 p.m., and I was supposed to be on call until
23 midnight that day. I received a call around
24 4:00 o'clock for a pickup in Ephrata. I did the

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1 pickup. And sometime on the way there or the way to
2 the prison, I received a call that Akron Borough had
3 another person for me to pick up on a probation
4 violation warrant, and that was Andrew.

5 Q Okay. The first person that you picked
6 up, had you already transported that person to the
7 jail prior to receiving the call to go pick up
8 Andrew?

9 A I believe I received the call on the way
10 to the prison, so I was probably still with that
11 person. I can't recall the situation.

12 Q Do you remember why you had picked up the
13 first person?

14 A No.

15 Q Was that person a male or a female?

16 A It was a male.

17 Q Okay. Do you remember how you came to
18 obtain custody over that first person?

19 A Can you be specific?

20 Q Were they already under arrest prior to
21 you going to pick them up?

22 A Yes. They were at the Ephrata Police
23 Department.

24 Q Okay. What does it mean when you say

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1 you're the on-call deputy? Can you describe what
2 your duties are?

3 A Yes. We, as the deputies, have different
4 responsibilities. We have court deputies, we have
5 civil deputies, and then we have the on-call deputy.
6 The on-call deputy, there's two shifts, the one --
7 they're all Monday through Sunday night. I'm the
8 first shift. It's from midnight until noon on the
9 weekends, and then from 8:00 in the morning until
10 midnight during weekdays. The second shift -- that
11 was the shift that I had at that time -- was from
12 Monday, 4:00 p.m., until Sunday at midnight -- until
13 Monday midnight. They're seven days.

14 Q Okay.

15 A So during those times we deal with all
16 the warrants out of our business hours.

17 Q Okay. And when you say deal with
18 warrants, can you describe that for me? What does
19 that mean?

20 A Yes, yes, they could be domestic
21 relations bench warrants -- all kind of bench
22 warrants: domestic relations bench warrants, fines
23 and costs bench warrants, parole violations.

24 Q Okay. And I think that you testified

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1 earlier that you received a call to go to the
2 hospital to pick up Andrew on a probation warrant;
3 is that right?

4 A Correct, yes.

5 Q Okay. And so at the time that you're
6 going to the hospital, you knew that you were
7 picking up someone for a violation of probation; is
8 that right?

9 A Correct.

10 Q Did you know anything else about Andrew
11 prior to arriving at the hospital?

12 A I did not.

13 Q Did you know anything about his criminal
14 history or background prior to you arriving at the
15 hospital?

16 A I did not.

17 Q When you arrived at the hospital, about
18 what time was it?

19 A It would have been around 5:00 o'clock.

20 Q And from the time that you got the call
21 until the time that you arrived at the hospital, do
22 you remember about how long that was?

23 A Probably between a half hour and
24 45 minutes.

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1 Q Did you receive any additional calls
2 during that 30- to 45-minute time frame about
3 Andrew's status or your status or where were you or
4 anything of that nature?

5 A Yes. Normally when we get a call for
6 somebody that's at the hospital, we will contact
7 security and let them notify us when the person is
8 ready to be discharged, so we will go over. So that
9 was what I was planning on, but then I received a
10 call from another officer stating that I had to go
11 relieve him to the hospital because he couldn't stay
12 with Andrew at the hospital.

13 Q Do you know if that was Officer Stone
14 that you received a call from?

15 A The first time it was Officer Rogers.
16 The second time, I believe, it would have been
17 Officer Stone, Sergeant Stone.

18 Q So you received two calls prior to
19 arriving at the hospital with regards to Andrew; is
20 that right?

21 A At least, yes.

22 Q All right. Are there other calls that
23 you remember with regards to Andrew?

24 A Not that I can recall.

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1 Q And the first call was placed by Officer
2 Rogers; correct?

3 A Correct.

4 Q And the second call was placed by Officer
5 Stone; correct?

6 A I believe, yes.

7 Q Okay. Do you remember Officer Stone
8 advising you as to why he could not remain with
9 Andrew while he was being examined by the medical
10 people there?

11 A Yes. He said he was the only officer on
12 the shift.

13 Q And so he had to go out and patrol and
14 take other calls; is that the --

15 A Yes.

16 Q -- the idea?

17 A Yes.

18 Q All right. And did you say anything to
19 either Officer Rogers or Officer Stone on these
20 calls?

21 A Other than advising him of my ETA, I
22 don't believe so.

23 Q All right. Did you tell them that you
24 had another person with you that you were

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1 transporting to jail?

2 A At the time I spoke with him, I had
3 already taken that person to the prison.

4 Q At the time you spoke with Officer Stone;
5 correct?

6 A Correct.

7 Q How about the time you spoke with Officer
8 Rogers? Had you already explained to him -- had you
9 already taken the previous prisoner to jail?

10 A I can't recall if when he called the
11 first time I was on the way to the prison or I was
12 leaving the prison, but either way, yes.

13 Q All right. Did you talk to any security
14 personnel at Ephrata Hospital prior to you arriving
15 there?

16 A I did not.

17 Q Okay. And when you arrived at Ephrata
18 Hospital, did you talk with Officer Stone?

19 A Yes.

20 Q Okay. Can you tell me about that
21 conversation?

22 A After I arrived, Officer Stone mentioned
23 that he couldn't stay with Andrew because he had to
24 leave on duties on shift. He didn't mention

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1 anything else. He only mentioned some other
2 instances where Andrew wasn't cooperative, but
3 that's pretty much the extent of the conversation.

4 Q All right.

5 A Nothing really to do that day in
6 particular.

7 Q So Officer Stone did not tell you
8 anything about Andrew's prior activities that day?

9 A He did not.

10 Q Was Andrew present when you and Officer
11 Stone were having this discussion?

12 A He was in the room. We were, I believe,
13 outside the entrance of the room.

14 Q Was he in a hospital room?

15 A Yes.

16 Q In the ER?

17 A Yes, I believe so.

18 Q Okay. Were there any other security
19 personnel watching Andrew at the time while you and
20 Officer Stone were outside of the room having a
21 discussion?

22 A No.

23 Q Okay. Was Andrew in the room with a
24 doctor or a nurse at the time that you were talking

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1 with Officer Stone outside the room?

2 A I don't recall. We didn't leave the
3 room. We were just staying far away from him so we
4 could have the conversation, so we were present, but
5 not right close to him.

6 Q Oh, okay.

7 A So he was never unattended.

8 Q So he was not unattended?

9 A None of the time.

10 Q All right. Did he have handcuffs on or
11 shackles on at the time when you first arrived?

12 A I believe he was cuffed to the bed with
13 the one hand.

14 Q And what was Andrew doing when you first
15 arrived?

16 A I don't recall. He was using the bed.

17 Q Okay. And about how big was that
18 hospital room?

19 A I don't know. Probably half the size of
20 this room maybe or a third.

21 Q Okay.

22 A Not big.

23 Q And you and Officer Stone had a
24 conversation in the room but away from Andrew; is

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1 that correct?

2 A Yes, right outside the room by the
3 entrance of the room.

4 Q So the door was open?

5 A Yes.

6 Q Were you in the doorway, kind of?

7 A Yes.

8 Q Okay. Were you either -- were you still
9 inside the room or outside the room with the door
10 open?

11 A Outside with the door open.

12 Q Did you see any nurses or doctors come
13 and go into that room while you were talking to
14 Officer Stone?

15 A I don't specifically recall.

16 Q Okay. What did Officer Stone tell you
17 about Andrew's prior activities previously in the
18 day?

19 A Nothing. He did not mention anything
20 prior to me arriving.

21 Q What was Andrew's physical appearance
22 when you arrived?

23 A It looked like he had some scratches. He
24 wasn't wearing a shirt.

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1 Q Okay. Do you remember where the
2 scratches were?

3 A Probably face and chest area.

4 Q Okay. You say probably. Did you
5 actually see --

6 A I did see. I believe it's on my
7 interview.

8 Q All right. Did you see any Taser prongs
9 in Andrew --

10 A I did not.

11 Q -- when you first came in?

12 A Sorry. I did not.

13 Q Okay. While you were present did you
14 ever see any doctors take Andrew to be x-rayed?

15 A No. That was another thing that we were
16 talking there, because he had to get some x-rays
17 redone on his wrist, because the first one -- I
18 believe the first ones he had the handcuffs on, so
19 they had to redo them.

20 Q You weren't there for the first x-rays;
21 correct?

22 A Correct.

23 Q Were you there for the second --

24 A Yes.

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1 Q -- set of x-rays?

2 A Yes.

3 Q All right. Did you accompany Andrew to
4 the x-ray room with the medical people?

5 A Yes. Both officers, Sergeant Stone and
6 I, went to the x-ray room with Andrew.

7 Q Okay. Did you have any conversations
8 with Andrew while you were escorting him to the
9 x-ray room?

10 A I did not.

11 Q Do you know about how long that escort
12 occurred after you had arrived?

13 A I don't recall the amount of time.

14 Q Do you think it was more than half an
15 hour?

16 A No. It would have been 15 to 20 minutes.

17 Q At any time did you ever see any Taser
18 prongs imbedded into Andrew's body?

19 A I did not.

20 Q Okay. Did Officer Stone tell you
21 anything about Andrew's history?

22 A He did mention some other encounters they
23 have had previously, where apparently Andrew
24 assaulted another officer or something like that.

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1 Q Okay.

2 A But it was not that day.

3 Q Okay. So Officer Stone told you about
4 another incident where Andrew had assaulted an
5 officer.

6 A Correct.

7 Q Okay. Did he say anything else about
8 Andrew?

9 A Not that I can recall.

10 Q Did he ever call him an asshole?

11 A Did I call who?

12 Q Did Officer Stone refer to Andrew as an
13 asshole?

14 A I believe he did.

15 Q Do you remember how many times he did
16 that?

17 A A couple of times.

18 Q Did you ask him what he meant by that?

19 A That was when he was explaining how an
20 asshole he was when he assaulted the other officer
21 and how he was not compliant previous times.

22 Q Okay. Did he give you any details about
23 how Andrew was not compliant?

24 A He did not.

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1 Q Okay. Did you ask him what he meant by
2 that?

3 A I did not.

4 Q Did you ask him what he meant by Andrew
5 being an asshole?

6 A I did not.

7 Q Did you ask him any details about the
8 previous time that he had allegedly assaulted an
9 officer?

10 A I did not.

11 Q Did Officer Stone volunteer any other
12 information about Andrew?

13 A Not that I can recall.

14 Q Did he tell you why Andrew was being
15 transported to jail?

16 A I believe he said something about his
17 wrist. They had to check his wrist.

18 Q About why he was transported to jail?

19 A Oh, I'm sorry. To jail?

20 Q Right.

21 A No. I was aware that he was a bench
22 warrant, so that's why I knew he was going to jail
23 on our bench warrant.

24 Q Did Stone tell you anything about what

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1 the bench warrant was for or why it was issued?

2 A I had knowledge about what the warrant
3 was for, about being a parole violation.

4 Q So you had knowledge of that.

5 A Correct.

6 Q All right. Where did that knowledge come
7 from?

8 A From the system that we use to pull our
9 warrants.

10 Q The computer.

11 A Correct.

12 Q Okay. Did Stone tell you anything about
13 why Andrew was being transported, or did you have a
14 discussion with him about that?

15 A No.

16 Q Okay. Did you have any knowledge that
17 Andrew Good had left a rehab or eloped from a rehab
18 facility and that was why the bench warrant was
19 issued for him?

20 A I did not.

21 Q Okay. What was Mr. Good's height, if you
22 can remember?

23 A I don't know his height. Probably a
24 couple of inches taller than I am.

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1 Q And what about his weight? What do you
2 think? Do you know what his weight was?

3 A He was a thin build. I don't know his
4 weight.

5 Q And when you saw him, he had his shirt
6 off. Was he wearing shoes? Do you remember?

7 A Yes.

8 Q Was he wearing pants?

9 A Yes.

10 Q Okay. At some point Officer Stone left;
11 correct?

12 A Correct.

13 Q All right. Do you remember anything
14 about him leaving?

15 A We had to change the gear in the x-ray
16 room. We went back to the original room that we
17 were in. Sergeant Stone stayed there for a couple
18 of minutes, just talked to Andrew for a couple of
19 minutes, and then he left.

20 Q And when you said exchanging gear, can
21 you describe what that means?

22 A Yes. I took the handcuffs that he had
23 from Officer Stone and placed my handcuffs and then
24 put my shackles on.

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1 Q Your shackles?

2 A Yes.

3 Q Okay. Prior to you placing your shackles
4 on Andrew, was he at any time shackled that you
5 could observe?

6 A I can't recall.

7 Q Do you know whether Officer Stone had any
8 shackles with him that day?

9 A I don't recall.

10 Q Did you attach the handcuffs to a belt
11 loop around Andrew's waist?

12 A Before we left the hospital.

13 Q Can you say that again? I'm sorry.

14 A Before we left the hospital.

15 Q All right. And tell me -- describe for
16 me how you affixed the shackles to him.

17 A We were in the x-ray room, and I put the
18 shackles on like I do to every other prisoner that I
19 deal with. I double lock them, make sure they don't
20 get tighter and they're not unsecured, and after
21 that he wanted to go to the bathroom. So he used
22 the bathroom without handcuffs on, came back, and
23 then I placed my handcuffs on in the front.

24 Q Okay. Did you check the shackles again

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1 when he came back from the bathroom?

2 A No.

3 Q And when you say double lock the
4 shackles, tell me what you mean by that.

5 A By double locking, it's when you push the
6 secure part of the shackles so that they don't move.

7 Q Okay.

8 A So they're secured in place.

9 Q And did you put those shackles around his
10 ankles?

11 A I did.

12 Q Was he wearing socks?

13 A I don't recall.

14 Q Did you put the shackles on over his
15 pants?

16 A No.

17 Q Okay. And how long after you were in the
18 x-ray room did you leave the hospital with Andrew?

19 A I don't recall the exact amount of time.
20 We were just waiting for the x-ray results to come
21 back and have him medically discharged.

22 Q Do you think you were there for more than
23 an hour?

24 A I don't believe so.

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1 Q Were there any other officers present at
2 the time that you were going to leave the hospital
3 with Andrew?

4 A No.

5 Q Where were you in the hospital when you
6 secured the handcuffs to the belt loop?

7 A In the room that Andrew was in.

8 Q The original examination room?

9 A Correct.

10 Q At any time was he talking to you --
11 Andrew -- saying anything to you?

12 A Not really.

13 Q Did he say anything at all?

14 A Not that I can recall.

15 Q I think I read in one of your interviews
16 that you said that he was looking at your Taser on
17 your belt.

18 A So he was looking at my belt.

19 Q And when did he do that?

20 A When we were waiting for the x-ray
21 results.

22 Q Were you in the x-ray room or the exam
23 room again?

24 A The exam room.

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1 Q And did you say anything to him when he
2 was looking at your belt?

3 A No. He just made me feel uncomfortable,
4 so I just sat down on the chair next to the bed.

5 Q All right. So tell me what happened
6 after you secured his handcuffs to the belt loop and
7 were going to leave the hospital. Tell me what
8 happened.

9 A I grabbed the belt in the back. I
10 directed him where to go to where the car was.

11 Q And where was the car?

12 A The car was parked in front of the main
13 entrance of the emergency room.

14 Q All right. And then what did you do?
15 Where did you go?

16 A I walked him down the sidewalk and then
17 the crosswalk and to the car.

18 Q And did he say anything to you during
19 that time?

20 A No.

21 Q All right. What happened when you got to
22 the car?

23 A When I got to the car, the car was
24 locked, so I had to manually open the front door and

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1 push a button to unlock all doors, so I had to let
2 go of him in order to do that.

3 Q You had to manually unlock the driver's
4 side door?

5 A Correct.

6 Q Okay. And so you --

7 A The passenger -- the passenger front
8 door.

9 Q Oh, okay. So you unlocked the passenger
10 side front door manually.

11 A Correct.

12 Q All right. And what did Andrew do when
13 you were unlocking the door?

14 A I just instructed him to face the car and
15 do not move.

16 Q And did you need an actual key?

17 A Yes.

18 Q And so you unlocked the passenger side
19 door and then hit the door unlock button?

20 A Correct.

21 Q All right. Did Andrew move or do
22 anything during that time period?

23 A He did.

24 Q What did he do?

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1 A I believe he was leaning on the
2 passenger's rear side of the car at that point.

3 Q Okay. So he was leaning on it?

4 A Yes.

5 Q Was he running away at that point when
6 you let go of him?

7 A No.

8 Q How long did it take for you to unlock
9 the door when you had let go of him?

10 A A couple of seconds.

11 Q And he was leaning on the rear passenger
12 side of the vehicle; correct?

13 A Correct.

14 Q And why did you need to let go of him in
15 order to manually unlock the car?

16 A Because I needed to unlock the door, open
17 the door, and push the button to unlock the door. I
18 wasn't going to be able to do all that with one hand
19 and holding him with the other.

20 Q Where were your keys, the car keys?

21 A On my possession. I don't specifically
22 recall where specifically.

23 Q I mean, are they on your belt? Are they
24 in your pocket?

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1 A I usually hang them on the antenna of the
2 radio.

3 Q But you don't remember where they were on
4 the date of the incident?

5 A Not specifically.

6 Q All right. And so were you able to
7 unlock the door, open the door and unlock and hit
8 the door unlock button while Andrew was still
9 present leaning against the car?

10 A Correct.

11 Q Okay. And then what happened next after
12 that?

13 A Then I had to put my hand on his shoulder
14 in order to open the door, because he was blocking
15 it, so I said -- I don't think I said something. I
16 just, like, put my hand on him and tried to open the
17 door, and then he said, "Don't fucking touch me."

18 Q So by that point he was leaning against
19 the rear passenger side door; correct?

20 A Towards the end, yes.

21 Q And you couldn't open the door because he
22 was leaning against it.

23 A Correct.

24 Q All right. And so you moved him with

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1 your left hand?

2 A Yes.

3 Q And then opened the door with your right
4 hand; correct?

5 A Correct.

6 Q And then what happened?

7 A Like I said, "Don't fucking touch me,"
8 and I instructed him several times to get in the
9 car.

10 Q And what did you say when you instructed
11 him to get in the car?

12 A He said he just wants to get some fresh
13 air, because he knows he's going to be gone for a
14 while.

15 Q And what did you say?

16 A I said that he if got in the car, we'll
17 roll the windows down for him so he could get some
18 fresh air.

19 Q Okay. And what did he say in response to
20 that?

21 A He kept resisting. He said he just wants
22 to get some fresh air.

23 Q All right. And he wasn't trying to run
24 away from you at this point; correct?

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1 A No, but he wasn't complying with my
2 directions to get in the car.

3 Q All right. And you didn't have your --
4 did you ever again put your hand on his belt?

5 A No.

6 Q Okay. At any time did you see his
7 shackle come loose or undone from the time that you
8 put them on until this resisting that you're talking
9 about at the vehicle?

10 A I didn't, but I did find it very strange
11 how he was, like, walking a little faster than I was
12 when we were walking to the car.

13 Q So at that point you noticed that he
14 was -- he was walking faster than someone in
15 shackles should be able to?

16 A Correct.

17 Q All right. Did you say anything to him
18 or look at his shackles or say stop or --

19 A No. I just held the belt tighter so he
20 would slow down.

21 Q All right. Did you tell me everything
22 about this back-and-forth discussion that you had
23 with him, about getting in the car versus him
24 staying outside the car to get fresh air? Were

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1 there any other things said?

2 A Like -- just, like, to get in the car or
3 I will -- at one point I believe I said that I will
4 charge him with resisting arrest if he didn't get in
5 the car. I don't recall saying anything else.

6 Q Did he say anything else to you?

7 A No.

8 Q What happened next after that?

9 A After that I grabbed his arm and tried to
10 get him in the car, and he kept pushing and pulling
11 away from me. At that point, I believe, I called
12 for assistance on the radio.

13 Q Okay. How many times -- so was it once
14 that you grabbed onto his arm and tried to put him
15 into the car and then he pushed away, or did you try
16 a couple of times?

17 A There were several times that I tried --
18 attempted to get him to get in the car.

19 Q Are you yelling at him or telling him,
20 "Get in the car"?

21 A I'm telling him, "Get in the car,"
22 firmly.

23 Q And what was he saying to you?

24 A The same thing, that he just wanted to

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1 get some fresh air.

2 Q All right. And then what happened after
3 that?

4 A At this point we kept, like -- I kept
5 trying to pull him to get into the car, and he kept
6 pulling away from me, and we moved further away from
7 the door. That's when we begin to kind of, like,
8 struggle, me pulling him and he kind of, like,
9 pulling away from me.

10 Q Okay. Do you know how many times you
11 went back and forth with him in terms of the
12 discussion that you were having with him?

13 A I didn't count them, but there were
14 several times that I instructed him to get in the
15 car and him not complying with it.

16 Q Okay. Do you think it was more than five
17 times?

18 A I don't recall. Probably.

19 Q And yet at some point you called for
20 assistance; correct?

21 A Correct.

22 Q Okay. What was the status of you and
23 Andrew in this incident at the time you called for
24 assistance?

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1 A About me being the only officer present
2 and him not going into the car, so I felt like I
3 needed somebody to help me get him in the car.

4 Q At this point you did not choose to Taser
5 him; correct?

6 A Correct.

7 Q Why did you not choose to Taser him at
8 this point?

9 A Because his action at that time, I didn't
10 feel like it needed to be tased.

11 Q Despite the fact that he was already
12 resisting you; correct?

13 A Correct.

14 Q And he was already, as you put it,
15 struggling with you; correct?

16 A Correct.

17 Q And at that point you elected not to tase
18 him.

19 A Correct.

20 Q Did you know that he had been tased prior
21 in the day?

22 A I did not.

23 Q Okay. When you called for radio
24 assistance, did anyone respond to you through the

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1 radio?

2 A I don't recall.

3 Q And when you call for assistance on that
4 radio, who receives that transmission?

5 A County radio dispatcher.

6 Q And you can't remember whether the county
7 radio dispatcher responded to you at all or said
8 anything to you?

9 A I don't recall.

10 Q All right. And then what happened next
11 after that?

12 A After that that's when -- I believe I
13 told him that if he didn't get into the car, I was
14 going to tase him.

15 Q And what did he say to that?

16 A I don't recall.

17 Q All right. And then what happened next
18 after that?

19 A We kept, like, struggling back and forth.
20 At one point I felt his shoulders move, like, weird,
21 and when I looked down, he was trying to grab my
22 Taser.

23 Q And at the time tell me where in relation
24 to him you were.

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1 A I was in close proximity to him.

2 Q And his handcuffs are cuffed to his belt;
3 correct?

4 A Correct.

5 Q All right. And you felt his shoulders
6 move. Were you grabbing him around the shoulders?

7 A I was not.

8 Q Tell me how you felt his shoulders move
9 weirdly.

10 A Because he was in close proximity to me,
11 and I just, like, felt his shoulders moved in a
12 weird way.

13 Q You were face-to-face with him?

14 A Correct.

15 Q All right. And where was your Taser kept
16 on your belt?

17 A On my left side, nondominant hand.

18 Q You're left-handed?

19 A No, nondominant-hand side.

20 Q I'm sorry. I misheard that. And on your
21 right hand you keep your firearm; is that true?

22 A Correct.

23 Q And how did you know that he was trying
24 to grab your Taser?

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1 A Because I saw his hands trying to grab my
2 Taser on my left side.

3 Q All right.

4 A And he said, "Yeah, I tried to get your
5 Taser."

6 Q He said that?

7 A He did.

8 Q All right. And he said, "What are you
9 going to do? Shoot me now?"

10 A Correct.

11 Q And what did you say?

12 A I don't recall if I said anything.

13 Q All right. And you still hadn't tasered
14 him at this point.

15 A Correct.

16 Q Why not?

17 A Because I didn't think it was necessary
18 at that point.

19 Q How long is this struggle occurring? How
20 long did this take?

21 A Couple of minutes.

22 Q Okay. And after he says, "Yeah, I was
23 trying to get your Taser. What are you going to do?
24 Shoot me now," did you say anything to him at that

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1 point?

2 A I don't recall if I said anything.

3 Q You don't remember what, if anything, you
4 said?

5 A Correct.

6 Q All right. And then what happened after
7 that?

8 A And then at that point he turned around
9 and ran from me.

10 Q All right. Did he break -- did you have
11 any kind of grip or hold on him at the time that he
12 broke away and ran?

13 A I did not.

14 Q Okay. And then what happened after he
15 broke away and ran? Did you make another radio
16 call?

17 A No. I pulled my Taser, and I deployed my
18 first cartridge.

19 Q And so when he broke away and ran from
20 you, you deployed your Taser, and did it hit him?

21 A I believe so.

22 Q And did you see it hit him?

23 A I did not see it. I saw him fall on the
24 ground.

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1 Q In the parking lot?

2 A Correct.

3 Q All right. And you were using the
4 trigger pull, shooting the cartridges out; correct?

5 A Correct.

6 Q Okay. Do you know where you hit him with
7 the Taser, where the prongs hit him?

8 A I do not. I aimed for the upper back. I
9 don't know where it hit him.

10 Q Okay. And did you attempt to engage the
11 electrical charge while he had fallen down?

12 A I believe I told him to stay on the
13 ground or I was going to give him another round.

14 Q So at the time that the prongs deployed
15 and hit him, he hit the ground; correct?

16 A Correct.

17 Q And at the time that the prongs hit him,
18 there was an electrical charge that accompanied
19 those prongs; correct?

20 A Correct.

21 Q Do you think it was the electrical charge
22 that resulted in him falling down?

23 A I do not know that.

24 Q Okay. Did you see him trip over anything

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1 or...

2 A I saw him fall to the ground.

3 Q How far away from him were you when you
4 first deployed your Taser?

5 A Probably the same distance between you
6 and me. Maybe a little farther. Maybe from here to
7 the door.

8 Q Okay.

9 A So 10 feet, 15.

10 MR. MAC MAIN: Yeah, I mean, I think what
11 she's describing --

12 MR. BAIRD: You to the door is 10 feet, I
13 would say, 15 -- yeah, 10 feet probably.

14 MR. MAC MAIN: So between 5 to 10 feet
15 away. Is that fair?

16 MR. BAIRD: That's an estimate, yeah.

17 MR. MAC MAIN: Yeah, that's why I said
18 about, yeah.

19 MR. BAIRD: Yeah.

20 BY MR. BAIRD:

21 Q All right. And then you told him you
22 were going to give him another charge, electrical
23 charge, if he didn't stop resisting; correct?

24 A Correct.

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1 Q Okay. Do you remember what words you
2 used?

3 A I don't recall the specific words that I
4 used.

5 Q Okay. It probably wasn't my clumsy words
6 that I just said; right? Probably not.

7 All right. What did he do after that?
8 Did he yell at you? Did he respond to you in any
9 way?

10 A He kept saying, "Why are you doing this
11 to me?"

12 Q Okay. And did you say, "Because you just
13 tried to run away"?

14 A I don't believe I said anything.

15 Q Okay. Did you get him with another
16 charge?

17 A I don't recall. I might have. I don't
18 recall.

19 Q But at some point he gets up off the
20 ground; correct?

21 A Correct.

22 Q Okay. Had you ever used your Taser prior
23 to this date?

24 A On another person, no.

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1 Q In training you had used it to deploy;
2 correct?

3 A Correct.

4 Q Had you ever observed other sheriff's
5 deputies deploying their Taser on another person?

6 A Besides training purposes, no.

7 Q Okay. How long did it take from the time
8 that you deployed your Taser on Andrew to the point
9 that he got back up on his feet? Do you know?

10 A I don't know.

11 Q Was it very fast that that happened? Was
12 it --

13 A I will guess so, but I'm not sure, yes.

14 Q Okay.

15 MR. MAC MAIN: Don't guess at anything.

16 THE WITNESS: I'm sorry.

17 BY MR. BAIRD:

18 Q All right. At any time did you observe
19 the shackles that Andrew had that were attached to
20 him come off? Did you see that at any time?

21 A I did not.

22 MR. MAC MAIN: Are you talking about any
23 time during the incident, or are we still in this
24 little window between the first and when he runs?

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1 MR. BAIRD: That was a clumsy question.
2 I was referring to the entire incident.

3 BY MR. BAIRD:

4 Q At any time did you see the shackles come
5 off of him?

6 A I did not.

7 Q Okay. And after Andrew had gotten back
8 up to his feet, tell me what happened then.

9 A He began to flee from me again. To this
10 point I deployed my second and last cartridge
11 available and called -- radioed that he was running
12 away from me.

13 Q All right. And when you say you deployed
14 two cartridges, those are the only two cartridges
15 that you had available at the time; correct?

16 A Correct.

17 Q Okay. And that is standard equipment for
18 all sheriff's deputies to just have two cartridges;
19 right?

20 A Correct.

21 Q That's how the conducted-electrical
22 weapons are made; right?

23 A For that model that we were carrying in
24 our department, yes.

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1 Q All right. And how many prongs come out
2 on each one of those cartridges?

3 A Two.

4 Q And did you see those prongs hit Andrew
5 on both of your deployments?

6 A I did not see where the prongs hit him.

7 Q Okay. When Andrew was fleeing from you,
8 were you on level ground, or was there a slope?

9 A There's a slope.

10 Q Okay. And I've seen a video of -- some
11 surveillance video of this where he -- where Andrew
12 is running down the hill, and you're running down
13 the hill, too, after him. Have you seen that video?

14 A Yes.

15 Q Okay. Do you know where that video came
16 from?

17 A I believe from the security cameras.

18 Q At the hospital; right?

19 A At the hospital, correct.

20 Q All right. And at some point did you
21 ever try to grab Andrew or pick him up? You heard
22 my client's testimony about how she wanted you to
23 grab onto him or hold him.

24 A Correct.

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1 Q Did you ever do that?

2 A I did not.

3 Q Did you ever think you had an opportunity
4 to try to grab him or otherwise restrain him with
5 physical force?

6 A I did not.

7 Q Did you think about whether you could do
8 that at the time?

9 A I did not.

10 Q Where did Andrew go after he got up and
11 started running?

12 A He run to the wooded area next to the
13 hospital.

14 Q Okay. And there's a creek down there;
15 correct?

16 A No, I didn't know that at the time. I
17 wasn't familiar with the area.

18 Q Was the creek hidden from -- could you
19 see the creek from where your vantage point was when
20 you were running down the hill?

21 A No.

22 Q What did you observe Andrew do after he
23 had gotten up and was running towards the wooded
24 area?

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1 A After he run to the wooded area, I saw
2 him disappear into the wooded area.

3 Q And at that time you had called again for
4 assistance; correct?

5 A I believe so.

6 Q Do you remember what you were thinking at
7 the time that you saw him disappear?

8 A Me being unfamiliar with the area, I was
9 just waiting for backup to arrive.

10 Q Did you proceed into the wooded area
11 after him?

12 A Not until backup arrived.

13 Q And tell me the reason for that.

14 A Safety issue.

15 Q Okay. And when you say a safety issue,
16 was it a safety issue for you? For the public? For
17 Andrew? Tell me about that.

18 A All of the above. I'm not familiar -- I
19 wasn't familiar with the area. I don't know why he
20 ran to -- I don't know if somebody was waiting there
21 for him. I was there by myself, so I had to wait
22 for backup.

23 Q Okay. Did you ever see Andrew again on
24 that date?

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1 A Yes.

2 Q Tell me about that.

3 A After Officer Rivera from Ephrata Police
4 Department arrived, we began to search for Andrew
5 for several minutes until I finally spotted him by
6 the creek.

7 Q And is that Officer Beth Rivera?

8 A Yes.

9 Q How long did it take for her to get
10 there?

11 A I don't recall the specific time.

12 Q Was it more than 10 minutes?

13 A You mean for her to arrive to the scene?

14 Q Yes.

15 A Yes.

16 Q From the time that you saw Andrew
17 disappear into the woods versus the time that she
18 arrived, it was more than 10 minutes?

19 A Probably not.

20 Q Okay.

21 A In answer to your question.

22 Q From the time that you saw him disappear
23 into the woods until Officer Rivera arrived, about
24 how long was that?

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1 A Like five minutes.

2 Q Were you talking on the radio with anyone
3 during that five-minute time period?

4 A I believe the dispatchers were trying to
5 get my location.

6 Q All right. And were you giving them your
7 location?

8 A Yes.

9 Q Anything else? Did anyone else talk to
10 you during that time period that -- while you were
11 waiting for Officer Rivera?

12 A I notified my supervisor of the
13 situation, the ongoing situation.

14 Q Okay. Was that Sheriff Leppler?

15 A No. That was Sergeant Bradley Breneman.

16 Q Okay.

17 A Who was the on-call supervisor that day.

18 Q And you called him on the radio; correct?

19 A On the phone.

20 Q On your cell phone?

21 A On the work cell phone, yes.

22 Q All right. And what did he say to you on
23 the phone?

24 A I don't recall.

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1 Q At any time did you see anybody else
2 deploy any Tasers on --

3 A No.

4 Q -- Andrew?

5 A Sorry.

6 Q That's okay.

7 A No.

8 Q When you saw him on the bank of the
9 creek, what was he doing?

10 A He was sitting down.

11 Q Did you see whether his hands were
12 cuffed?

13 A No.

14 Q Did you see him with his face towards you
15 or his back towards you?

16 A I was only able to see the full back.

17 Q Did you notice anything else about him
18 while he was sitting down?

19 A I did not.

20 Q At any time did you see him stand up?

21 A I did not.

22 Q Did you yell out to anyone that you saw
23 him?

24 A I walked up to Officer Rivera and

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1 informed her that I had seen him.

2 Q Okay.

3 A And pointed in the direction where he
4 was.

5 Q Did you ever yell to Andrew?

6 A I believe Officer Rivera and I were
7 yelling out his name.

8 Q At the time that you saw him, did you
9 yell out to him?

10 A I did not.

11 Q And what was the reason why you didn't
12 yell to him there?

13 A To use that as my advantage so he didn't
14 know we were coming for him.

15 Q But then you lost sight of him again; is
16 that true?

17 A We had to walk around all the branches
18 and trees to go to the point where he was, so at
19 that point I did lose sight of him.

20 Q From the time period that you saw him
21 sitting down by the creek until you lost sight of
22 him again, about how long was that time period?

23 A It would have been a couple of seconds.

24 Q Did you ever see him again after losing

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1 sight of him?

2 A Yes.

3 Q Tell me about that.

4 A When we arrived to the area together, we
5 initially saw him. He was in the water.

6 Q What body parts did you see of him in the
7 water?

8 A From the chest up.

9 Q Okay. Could you tell whether he was
10 standing on the bottom of the creek when you saw
11 him?

12 A I was unable to tell.

13 Q Could you see his arms at all?

14 A No.

15 Q How far out into the creek was he when
16 you observed him again?

17 A Well, pretty far. I don't know the exact
18 distance, but it was further than the door, so
19 further away -- more than 10, 15 feet away.

20 Q Did you yell to him?

21 A I don't recall.

22 Q Do you know whether Officer Rivera yelled
23 to him?

24 A I believe she did.

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1 Q Okay. Did you ever lose sight of him
2 again?

3 A Yes.

4 Q Tell me about that.

5 A After he kept getting deeper into the
6 creek, it was only at this point where his head was
7 the only thing visible, and then a couple of times
8 his head went down below the water, and then after a
9 couple of times it didn't arise.

10 Q And at any time did you yell to him?

11 A I don't recall.

12 Q And you think Officer Rivera yelled to
13 him?

14 A I believe she did.

15 Q Do you know what she yelled?

16 A I believe she was saying his name,
17 Andrew.

18 MR. BAIRD: Okay.

19 MS. GOOD: Can we have a break?

20 MR. BAIRD: Yeah, sure.

21 MR. MAC MAIN: Sure.

22 (A recess was taken.)

23 BY MR. BAIRD:

24 Q All right. Ms. Gunnett, did you see --

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1 when Andrew was sitting on the bank of the creek,
2 did you see any Taser prongs in him?

3 A No.

4 Q Okay. About how far away from him were
5 you?

6 A When I first saw him?

7 Q Yeah.

8 A It was far away.

9 Q When you next saw him when he was in the
10 creek, how close to the creek were you?

11 A A couple of feet away.

12 Q So you were on the bank of the creek when
13 you saw him in the water; correct?

14 A Correct.

15 Q Did you ever see him actually enter the
16 water?

17 A I did not.

18 Q Do you know whether anyone else actually
19 saw him enter the water that you're aware of?

20 A I'm not aware. I don't know.

21 Q And when you and Officer Rivera were
22 searching, how close was Officer Rivera to you?

23 A A couple of feet away.

24 Q Were there any other officers present at

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1 that time?

2 A No.

3 Q Did you ever enter the water to try to
4 get Mr. Good in custody?

5 A I did not.

6 Q Okay. And why didn't you go into the
7 water?

8 A Different reasons: First one, Officer
9 Rivera was already in the water, and we were the
10 only two officers on the scene; secondly, I'm not
11 trained in water rescue.

12 Q Do you know whether Officer Rivera is
13 trained in water rescue?

14 A I do not know.

15 Q Okay. Did you at any time ever see
16 Andrew Good again?

17 A No.

18 Q Okay. And after that happened what did
19 you do?

20 A Can you be more specific as to what?

21 Q Yeah, yeah, that was a bad question.
22 Was Officer Rivera able to get to Andrew?

23 A No.

24 Q Okay. What did she do to try to go into

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1 the water? Did she put down her equipment? Did she
2 grab onto a tree to try to secure her footsteps?

3 A The only thing I recall is she took her
4 duty belt with all of her gear off.

5 Q Did she swim out into the creek?

6 A No. She got into the water. I don't
7 know how far she did.

8 Q Okay. At some point other officers
9 arrived; correct?

10 A Correct.

11 Q Okay. Did you see any of these other
12 officers arrive from where you were next to the
13 creek?

14 A What do you mean?

15 Q At the time you're standing next to the
16 creek and you watch Officer Rivera walking out into
17 the creek, were there any other officers present at
18 that time?

19 A No.

20 Q What was on the other side of the creek,
21 if you remember?

22 A I don't know.

23 Q Was it more woods?

24 A I believe so.

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1 Q Do you remember if you saw any roads on
2 the other side of the creek --

3 A I don't know.

4 Q -- from where you were standing?

5 A No.

6 Q Okay. Did you ever have any
7 conversations with anyone prior to giving your
8 statement about what had happened?

9 A I did not.

10 Q What about your supervisor? Did you talk
11 to him at all prior to giving your statement about
12 what had happened?

13 A As far as the prisoner ran away from my
14 custody, that's as far as it went.

15 Q You didn't get into any detail with your
16 supervisor about what had happened?

17 A I did not.

18 Q Did you ever talk to Sheriff Leppler
19 about this incident?

20 A I did not.

21 Q Lancaster County has a policy with
22 regards to the use of your electronic-controlled
23 weapon. Are you aware of that policy?

24 A Yes.

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1 Q Did you ever read it before this incident
2 occurred?

3 A Yes.

4 Q Okay. How many trainings did you
5 undertake with regards to the use of your
6 electronic-controlled weapon?

7 A We do a recertification every year.

8 Q Okay. And so by that time would it be
9 fair to say that you had undertaken two trainings on
10 that?

11 A Yes.

12 Q With Lancaster County Sheriff's
13 Department; correct?

14 A Correct.

15 Q All right. Were you ever trained on the
16 use of a Taser or an electronic-controlled weapon by
17 Dauphin County?

18 A Yes.

19 Q Did those trainings differ in any way
20 that you can remember?

21 A Yeah. The model that we were carrying in
22 Lancaster County was different from Dauphin County.

23 Q How was it different? Can you tell me
24 about that?

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1 A Yes. The one that I was carrying with
2 Lancaster County, you're able to carry two
3 cartridges at one time and deploy them individually;
4 and the ones for Dauphin County, you had to recharge
5 the one cartridge after deployment of the first one.

6 Q Okay. Have you ever received any
7 training from any source with regards to the use of
8 the electronic-controlled weapon that you're not to
9 deploy it on someone who has an opioid addiction?

10 A No. The things that we go through in
11 training is about deployment on elderly, kids, low
12 mass individuals, and pregnant women.

13 Q Have you ever at any time received any
14 training on the use of the conducted-electrical
15 weapon that you should not use it on people who have
16 heart problems?

17 A That's included in the training.

18 Q Have you ever received any trainings that
19 you should not use a Taser on anyone who is under
20 the influence of opiates?

21 A Not specifically that.

22 Q How about generally?

23 A Not that I can recall.

24 MR. MAC MAIN: Generally under the

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1 influence of drugs? Is that your general --

2 MR. BAIRD: Sure.

3 THE WITNESS: Not that I'm aware of.

4 MR. BAIRD: All right. And just so we're
5 clear, she said not specifically.

6 BY MR. BAIRD:

7 Q I'm trying to find out if there's some
8 other kind of general instruction given to you with
9 regards to someone who's under the influence of any
10 kind of --

11 A No, not that I can recall.

12 Q Did you ever receive any training from
13 Lancaster County that you should not be deploying a
14 Taser on individuals who are handcuffed?

15 A It all depends on the circumstances.

16 Q The totality of the circumstances?

17 A Correct.

18 Q Okay. Had you ever received training
19 that you should not deploy a conducted-electrical
20 weapon on individuals who are standing in water?

21 A Correct.

22 Q Okay. Besides the deployment of the
23 cartridges, the weapon that you used can also be
24 used to drive stun individuals; correct?

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1 A Correct.

2 Q And can you just describe what a drive
3 stun is for the record?

4 A Drive stun is just, like, giving an
5 electrical shock directly on the skin.

6 MR. BAIRD: All right. I think that's
7 all the questions I have for you, Sheriff Gunnett.

8 MR. BOYLE: Nothing from me. Thank you
9 for coming in.

10 MR. MAC MAIN: I actually have a few.

11 EXAMINATION

12 BY MR. MAC MAIN:

13 Q At any point did you -- well, let me ask
14 you this: At any point did you ever tase Mr. Good
15 while he was in the water?

16 A I did not.

17 Q Did you observe anybody tase him while he
18 was in the water?

19 A I did not.

20 Q You said when you last saw him, he was on
21 the bank of the creek, then you lost -- you lost
22 vision, and the next thing you knew is you and
23 Officer Rivera came around and he was now into the
24 water up to his chest about 10 to 15 feet in.

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1 A Correct.

2 Q Was there anybody -- when you and Officer
3 Rivera got down to the bed of the creek, was there
4 anyone else there besides Mr. Good?

5 A Can you specify --

6 Q Sure.

7 A Anybody with him or anybody in the area?

8 Q Anybody who could have possibly pushed
9 him in the creek between the time you last saw him
10 and when you and Officer Rivera got down to the
11 bank.

12 A No. He was the only one.

13 Q And you didn't push him in?

14 A I did not.

15 Q Officer Rivera didn't push him in?

16 A She did not.

17 MR. MAC MAIN: Okay. That's all the
18 questions I have. Thank you.

19 MR. BAIRD: No follow-up.

20 - - -

21 (The witness was excused.)

22 - - -

23 (The deposition concluded at
24 approximately 1:00 p.m.)

BARBARA GUNNETT

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C E R T I F I C A T E

I do hereby certify that I am a Notary Public in good standing; that the aforesaid testimony was taken before me at the time and place indicated; that said deponent was by me duly sworn to tell the truth, the whole truth, and nothing but the truth; that the testimony of said deponent was correctly recorded in machine shorthand by me and thereafter transcribed under my supervision with computer-aided transcription; that the deposition is a true and correct record of the testimony given by the deponent; that a review of the transcript by the deponent was not requested; and that I am neither of counsel nor kin to any party in said action nor interested in the outcome thereof.

I declare under penalty of perjury that the foregoing is true and correct. Dated this 1st day of September, 2020.



Holly J. Cross
Notary Public

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Commonwealth of Pennsylvania Rules of Civil

Procedure

Title 231, Chapter 4000

Depositions and Discovery

Rule 4017

(c) When the testimony is fully transcribed a copy of the deposition with the original signature page shall be submitted to the witness for inspection and signing and shall be read to or by the witness and shall be signed by the witness, unless the inspection, reading and signing are waived by the witness and by all parties who attended the taking of the deposition, or the witness is ill or cannot be found or refuses to sign. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the person before whom it was taken with a statement of the reasons given by the witness for making the changes. If the deposition is not signed by the witness within thirty days of its submission to the witness, the person before whom the deposition was taken shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the refusal to sign together with the reason, if

any, given therefor; and the deposition may then be used as fully as though signed, unless the court holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

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EXHIBIT C

VIDEO SURVEILLANCE
FROM
EPHRATA COMMUNITY HOSPITAL
(Previously Produced Through Discovery and
Bates Labeled as LC0157)

FLASH DRIVE SENT TO COURT ON DECEMBER 30, 2020

EXHIBIT D



Deposition of:
Officer Beth Rivera

August 18, 2020

In the Matter of:
**Estate Of Andrew Davis Good Vs.
Lancaster County, Et Al**

Veritext Legal Solutions
888.777.6690 | cs-midatlantic@veritext.com | 215-241-1000

1 UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF PENNSYLVANIA
3 CIVIL ACTION

- - -

4 ESTATE OF ANDREW DAVIS GOOD: NO.: 20-1431

:

5 Plaintiff, :

:

6 v. :

:

7 LANCASTER COUNTY, et al :

:

8 Defendants.:

9 - - -

10 August 18, 2020

11 - - -

12 Oral deposition of OFFICER BETH
13 RIVERA, taken pursuant to notice, held at
14 MacMain, Connell & Leinhauser, 433 West
15 Market Street, Suite 200, West Chester,
16 Pennsylvania 19382, beginning at
17 approximately 9:50 a.m., before Mary
18 Hammond, a Registered Professional
19 Reporter and Notary Public in the state of
20 Pennsylvania.

21 - - -

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WITNESS:

OFFICER BETH RIVERA

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BY MR. BOYLE --
BY MR. MACMAIN 39

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(Whereupon, there were no exhibits
marked at this time.)

1 - - -
2 P-R-O-C-E-E-D-I-N-G-S
3 - - -

4 (By agreement of counsel, the
5 sealing, certification and filing are
6 waived, and all objections as to the form
7 of the question, are reserved until the
8 time of trial.)

9 - - -
10 OFFICER BETH RIVERA, after having
11 been first duly sworn, was examined and
12 testified as follows:

13 - - -
14 MR. BAIRD: Graham, G-R-A-H-A-M,
15 Baird, B-A-I-R-D. I represent the
16 plaintiffs, Estate of Andrew Good and
17 Kristi, K-R-I-S-T-I, Good.

18 MR. BOYLE: Christopher Boyle, and I
19 have Ephrata Borough, and the witness
20 today, Officer Beth Rivera.

21 MR. MACMAIN: David MacMain. I
22 represent Lancaster County, Lancaster
23 County Sheriff, Lancaster County Sheriff's
24 Deputy Gunnet.

1 MR. DAVIS: Andrew Davis, Lancaster
2 County, Deputy Gunnet, and Lancaster
3 County Sheriff.

4 MR. BOYLE: Read and sign.

5 - - -

6 DIRECT EXAMINATION

7 - - -

8 BY MR. BAIRD:

9 Q. Good morning, Ms. Rivera.

10 A. Good morning.

11 Q. My name is Graham Baird. I'm a lawyer who
12 represents the plaintiff in a lawsuit that has been
13 filed against some individual defendants and some
14 law enforcement agencies and some municipal entities
15 arising out of an incident that occurred back on
16 April 14, 2018. Today we are here for your
17 deposition.

18 Have you ever given a deposition before?

19 A. No.

20 Q. I am going to give you some instructions
21 and guidance to make this go as quickly and smoothly
22 as possible, okay?

23 A. Okay.

24 Q. I am here and the other lawyers are here

1 to ask you some questions about what you know and
2 remember about that incident and your involvement in
3 it.

4 Your legal obligation is to provide
5 answers to those questions to the best you can; do
6 you understand that?

7 A. Yes.

8 Q. When you are giving answers, it is very
9 helpful for all of us, including the court reporter
10 who is transcribing everything that is said in the
11 room, that you answer the question verbally.
12 Shaking your head, nodding your head, "uh-huh,"
13 "un-un," we try to stay away from those. It's hard
14 to understand.

15 And when you go back and read the
16 transcript, it may not be clear what your answer
17 was; is that okay?

18 A. Yes.

19 Q. Alongside of that, you and I should
20 only -- one person should be speaking at a time,
21 okay?

22 A. Okay.

23 Q. So please wait for me to ask my question,
24 and I will certainly give you the courtesy to wait

1 for you to complete answer before I ask another
2 question, okay?

3 A. Okay.

4 Q. If your attorney objects to one of my
5 questions, stop, let him place his objection on the
6 record, and then he can instruct you to answer or
7 not answer depending on what that objection is,
8 okay?

9 A. Okay.

10 Q. All right. If you need break for any
11 reason, go ahead and let me know and we can stop and
12 take a break, okay?

13 A. Okay.

14 Q. If you do not understand one of my
15 questions, if you don't hear one of my questions,
16 also please let me know and I will try and ask it
17 more clearly or so it can be heard, okay?

18 A. Okay.

19 Q. All right. Do not guess at anything, all
20 right? If you don't understand one of my questions,
21 please speak up and say so because if you answer it,
22 the record is going to assume -- anyone reading the
23 transcript is going to assume that you understood
24 what the question was because you answered it, okay?

1 A. All right.

2 Q. I don't think there is anything else in
3 terms of instructions. I don't expect this to go
4 too long, but, again, if you need a break for any
5 reason, just let me know, okay?

6 A. Sure.

7 Q. Can you state your full name for the
8 record?

9 A. Beth Rivera.

10 Q. And who do you currently work for?

11 A. Ephrata Police Department.

12 Q. And what is your current rank or job
13 title?

14 A. Patrol Officer.

15 Q. How long have you had that job?

16 A. Four and a half years.

17 Q. Have you ever been employed by any other
18 law enforcement entities?

19 A. No.

20 Q. Can you tell me a little bit about your
21 educational background?

22 A. I have a bachelor's degree in criminal
23 justice from Messiah, and then I have a master's
24 degree in criminal justice from Penn State

1 Harrisburg.

2 Q. And when did you get your master's degree?

3 A. In 2012.

4 Q. And when did you get your bachelor's
5 degree?

6 A. Actually, that was -- 2012, I got my
7 bachelor's; and, 2014, I got my master's.

8 Q. And did you immediately seek out
9 employment in the law enforcement area after
10 obtaining your master's degree?

11 A. I did.

12 Q. And -- all right.

13 Have you had any other employment
14 opportunities in any security field of any kind?

15 A. I worked at Metro Bank as a fraud
16 investigator for counterfeit checks.

17 Q. When did you that?

18 A. That was after my master's but before
19 being hired with Ephrata Police Department, so 2014
20 time.

21 Q. How long did you keep that job?

22 A. About six months.

23 Q. And then why did you leave that job?

24 A. I was going into the academy for -- to go

1 for the police academy.

2 Q. Did you already have a job with the
3 Ephrata Borough at the time you entered the police
4 academy?

5 A. No.

6 Q. Have you ever been subject to any
7 disciplinary actions in connection with your
8 employment at Ephrata Borough?

9 A. No.

10 MR. BOYLE: Objection to the
11 relevance of this for a fact witness.

12 But you can answer.

13 THE WITNESS: No.

14 BY MR. BAIRD:

15 Q. Now, we're here for to talk about answer
16 incident that occurred back in April 14, 2018.

17 Do you remember what you were doing that
18 day before going to the WellSpan Ephrata Hospital
19 area?

20 A. I was -- I started my shift at 6:00 p.m.

21 Q. And what were you doing prior to starting
22 your shift, were you at home?

23 A. I don't remember.

24 Q. And why did you -- about what time did you

1 end up going to the WellSpan Ephrata Hospital area?

2 A. Around 7:45 p.m., I was dispatched.

3 Q. Do you remember what the call said as to
4 why you were dispatched?

5 A. Initially, I was dispatched to assist the
6 Sheriff's Department with a prisoner that they had
7 at the hospital.

8 Q. And that was the original call at 7:45
9 that you received?

10 A. Correct.

11 Q. Did you receive any other dispatch calls
12 after that initial call?

13 A. Yes. As I was leaving the station, they
14 updated the call that the prisoner had escaped
15 custody.

16 Q. About how long after the initial call was
17 that second call received by you?

18 A. Probably within seconds.

19 Q. Was there any other information
20 transmitted to you in that initial call about what
21 assistance was required with the regard to the
22 prisoner?

23 A. Not initially, no.

24 Q. Do you remember where you were when you

1 got the call?

2 A. I was at the station.

3 Q. At Ephrata Borough?

4 A. Yes.

5 Q. And about how far away from the police
6 station is the hospital?

7 A. It's about two to three miles.

8 Q. And you immediately responded to those
9 calls and drove to the hospital, correct?

10 A. Yes.

11 Q. What did you see when you first arrived?

12 A. I pulled into a parking lot belonging to
13 the hospital that was near the KFC, which is what I
14 was told he was near that area.

15 Q. Who told you that he was near the KFC?

16 A. I was dispatched that by County.

17 Q. And then what did you do after that?

18 A. I got out of my vehicle and started
19 walking toward the wood line, which is where he was
20 said to have gone in the woods, or near the woods,
21 near the KFC.

22 Q. Did you see any other officers at that
23 time when you started approaching the wood line?

24 A. I did see Ephrata Community Hospital

1 security staff along the wood line, so I walked
2 toward them.

3 Q. How many individuals were there from the
4 hospital, the security staff?

5 A. I don't know.

6 Q. Was it more than one?

7 A. Yes.

8 Q. Was it more than five?

9 A. I don't believe so.

10 Q. Did you talk with any of the security
11 staff as you approached them?

12 A. I did. And they told me that the sheriff
13 was up ahead -- like up around the wood line.

14 Q. And at this point could you see the
15 sheriff?

16 A. I don't recall that I could see her.

17 Q. Do you recall how much light there was?

18 A. I didn't need a flashlight to see.

19 Q. But it was around 7:45, though, correct?

20 A. Yeah. It was like dusk, but I had no
21 problem seeing without a flashlight.

22 Q. At that point, did you see Andrew Good,
23 the prisoner at issue?

24 A. No.

1 Q. At any time, did you -- did you have any
2 other conversations with any of the security people
3 from the hospital at that point?

4 A. No. They took me up to where the sheriff
5 was, so I could meet with her.

6 Q. From where you were standing near the wood
7 line, could you see the creek?

8 A. No.

9 Q. About how far into the woods is the creek
10 bed?

11 A. I don't know.

12 MR. BOYLE: Objection. Just from
13 where she first met the sheriff from where
14 she first arrived?

15 MR. BAIRD: From the wood line to the
16 creek.

17 MR. BOYLE: It's a long wood line,
18 Counsel. So where along the wood line do
19 you want her to estimate?

20 BY MR. BAIRD:

21 Q. When you were first approaching the
22 security guards where they were standing, about how
23 far in is the creek?

24 A. I don't know because I don't recall seeing

1 the creek, so I'm not sure.

2 Q. Did you ever talk to the sheriff?

3 A. Yes.

4 Q. Tell me about that conversation, the first
5 one you had.

6 A. I asked her what happened and she
7 explained to me that there was a scuffle at her
8 vehicle with Andrew Good and he attempted to grab
9 her taser, so she attempted to tase him twice and he
10 removed probes and ran from her, and a shackle on
11 his leg had come undone as he was running.

12 Q. So she told you that a shackle on his leg
13 had come undone while he was running?

14 A. Yes.

15 Q. And she also told you that he had removed
16 the taser probes that she had tased him with?

17 A. Yes.

18 Q. Have you ever used your taser before?

19 A. No.

20 Q. Do you carry a taser?

21 A. Yes.

22 Q. Do you know if it's the same model of
23 taser that is carried by the Lancaster County
24 Sheriff's Department?

1 A. I don't know.

2 Q. And what was the name of the sheriff who
3 you spoke with?

4 A. Rodriguez was her last name.

5 Q. Had you ever encounter her before?

6 A. Not that I recall.

7 Q. Have you talked to her about the incident
8 since it happened?

9 A. No.

10 Q. You ever encounter Andrew Good before?

11 A. No.

12 Q. Have you ever encountered Kristi Good
13 before, his mom?

14 A. Not that I recall.

15 Q. And what was -- Sheriff Rodriguez, what
16 was her demeanor at the time you were talking to
17 her?

18 A. She seemed worried.

19 Q. Anything else that you can remember about
20 her demeanor?

21 A. No.

22 Q. Did you have any other conversations with
23 her?

24 A. She -- she pointed in the direction to the

1 woods and said that he kind of ran in that
2 direction.

3 Q. And what did you do?

4 A. I then got on my radio, relayed the
5 information she told me to our other officers that
6 were also in the area, or getting to the area to
7 look for him, and I did that on our private channel.

8 Q. And so that was not broadcast over the
9 dispatch channel, correct?

10 A. Correct.

11 Q. Did anyone respond to you over the radio?

12 A. I believe someone -- they just
13 acknowledged me. I don't remember specifics.

14 Q. And then what did you do next after the --
15 making the radio call?

16 A. The deputy and I decided to walk into the
17 woods in the direction she thought he ran.

18 Q. And can you describe what direction that
19 was?

20 A. North, east, south or west or --

21 Q. Yes.

22 A. It would have been north.

23 Q. Towards the creek?

24 A. Correct.

1 Q. Did you ever see him?

2 A. I saw him after she pointed him out to me.

3 Q. Were you two -- about how far apart were
4 you two when you were looking for him?

5 A. We were five feet or so of each other.

6 Q. At that time when she pointed him out to
7 you, were there any other officers around?

8 A. There were no officers from the police
9 department with me.

10 Q. Were there any officers from the Sheriff's
11 Department other than Sheriff Rodriguez with you?

12 A. No.

13 Q. And what was Andrew Good doing when
14 Sheriff Rodriguez pointed him out to you?

15 A. He appeared to be laying in the water
16 right along the shore line, and like I could see his
17 head, but it appeared that he was laying on his
18 stomach.

19 Q. In an effort not to be seen, would that
20 be --

21 A. Yeah. It appeared that he was hiding from
22 us.

23 Q. He wasn't sitting up, correct?

24 A. I couldn't see below the water, but from

1 the angle of his head it didn't look like it.

2 Q. When you initially saw him, was his body
3 in the water?

4 A. All I saw was his head, so yeah.

5 Q. Did you -- did you call out to him or yell
6 to him?

7 A. I did.

8 Q. What did you say?

9 A. I called out his name.

10 Q. Anything else?

11 A. And eventually I just called out his name.

12 Q. And was he wearing any clothes when you
13 saw him?

14 A. I couldn't tell.

15 Q. And all you could see was his head,
16 correct?

17 A. Correct.

18 Q. And it appeared as though he was laying
19 down on his stomach?

20 A. Correct.

21 Q. About how far away from him were you when
22 you initially saw him?

23 A. We were probably 40 or 50 feet away.

24 Q. Was there anything between you and him?

1 A. Yes, trees. And then it was -- down an
2 embankment is the woods.

3 Q. Can you estimate as to how steep the
4 embankment was, do you know?

5 A. I don't know.

6 Q. And how many times did you call out his
7 name to him?

8 A. Several times, I think, looking for a
9 response for him to respond to me.

10 Q. Did you see him respond or react to him at
11 all of you calling out his name?

12 A. He didn't say anything?

13 Q. At that point could you see him react,
14 like hunker down, or anything like that?

15 A. I don't remember.

16 Q. And did you ever -- did you maintain sight
17 of him, or did you lose sight of him?

18 A. No, I maintained sight of him.

19 Q. And tell me what you did next after you're
20 calling out to him?

21 A. I told the other officers that I located
22 him, or that we located him, and we're looking at
23 him in the water, so that they could start to come
24 to that area, and then the deputy and I began to go

1 down this embankment toward him.

2 Q. Were you calling out to him again while
3 you were going down the embankment?

4 A. Yeah. That's when I was like -- several
5 times, I guess I said his name, and we were slowly
6 making our way down because it was steep.

7 Q. What was he doing while you are making
8 your way down?

9 A. As I -- as we started to get closer to
10 him, he started to drift toward the center of the
11 creek.

12 Q. And when you say "drift towards the center
13 of the creek," can you explain what you mean by
14 that?

15 A. I just saw his head moving from where it
16 had been toward the center of the creek.

17 Q. Was he moving backwards into the creek?

18 A. It was more of an angle. It was backwards
19 and to my right. If I was looking at him, it was to
20 my right and back.

21 Q. And was he following along the current of
22 the stream?

23 A. The current was going east, so he was
24 going the same direction as the current.

1 Q. To your right?

2 A. Correct.

3 Q. And was he still down on his stomach, or
4 was he walking in or backing in?

5 A. I don't know.

6 Q. What -- were you thinking about how you
7 were going to capture him, or apprehend him at that
8 point?

9 A. I wasn't sure. I wasn't sure what he was
10 doing. So we were still in the process of getting
11 down to the water's edge.

12 Q. About how long did it take you to get down
13 to the water's edge after initially seeing him?

14 A. I'd say about 15 seconds or -- 15 or 20
15 seconds.

16 Q. Do you know whether Sheriff Rodriguez was
17 saying anything to him at the time?

18 A. I only remember her saying that she
19 thought he was faking.

20 Q. And when you say "faking," what do you
21 mean?

22 A. Well, that came a little bit after. You
23 haven't gotten there with me yet.

24 Q. I'm sorry. In terms of all the time

1 you're calling out to him, Andrew Good, is she
2 saying anything to you?

3 A. Not that I recall.

4 Q. Is she saying anything to him or calling
5 out?

6 A. Not that I recall.

7 Q. And who -- and how were you making your
8 way down, is someone going first or second or how
9 did that work?

10 A. I don't remember. We were next -- we were
11 near each other. I don't know who was where.

12 Q. And at that point, did you have any weapon
13 deployed or anything of that nature?

14 A. No.

15 Q. Did you have to hold on to the side of the
16 bank to get down, was it that steep?

17 A. I probably had to hold on to some trees at
18 different times but not the entire time.

19 Q. Could you tell whether Andrew Good was
20 standing on the -- in the creek or was he floating
21 or swimming, could you tell?

22 A. I couldn't tell because --

23 MR. BOYLE: Just objection. At what
24 point are you talking here?

1 MR. BAIRD: After she sees him kind
2 of move.

3 MR. BOYLE: Drift out.

4 MR. BAIRD: Drift out into the creek.

5 MR. BOYLE: Okay. Is that how you
6 were answering the question, Officer?

7 THE WITNESS: Yeah. I couldn't tell
8 you.

9 BY MR. BAIRD:

10 Q. Did you ever see him struggling against
11 the current?

12 A. No.

13 Q. You ever see him paddle or swim?

14 A. No. The -- the water was dark, so it was
15 difficult to see really below it.

16 Q. At any time, did you observe any taser
17 prongs in Andrew Good?

18 A. No.

19 Q. What did you do next after you had walked
20 down the embankment?

21 A. Andrew began to call out for help.

22 Q. Is that -- did he just say, "Help, help,"
23 or do you remember what he said specifically?

24 A. He was just saying, "Help."

1 Q. And where was he when he was calling out
2 for help?

3 A. He had, like I said, drifted -- drifted
4 from the edge of the shore, and he was maybe, I
5 don't know, ten feet from the shore line at that
6 point, kind of in front of me.

7 Q. Is that when Sheriff Rodriguez said she
8 thought he was faking when he was calling for help?

9 A. Yes.

10 Q. And did you respond to her?

11 A. I don't recall responding to her. I was
12 focused on watching him.

13 Q. And what did you do next after he was
14 calling for help?

15 A. I was telling him to swim to shore, to
16 come to us.

17 Q. At that point, did you know whether he was
18 handcuffed or not?

19 A. I didn't know the status of his handcuffs
20 at that point.

21 Q. At that point, you knew that a shackle had
22 come loose, correct --

23 A. Correct.

24 Q. -- according to Sheriff Rodriguez?

1 A. Correct.

2 Q. Could you see any shackles or handcuffs on
3 him while he was in the water?

4 A. No.

5 Q. Could you see his body out of the water,
6 or was it just his head?

7 A. It was just his head.

8 Q. At any time, was his head going under the
9 water?

10 A. Yes. Initially, it wasn't. And then it
11 started to go under and then he would come up, and
12 go under and come up.

13 Q. When in the sequence of this did Sheriff
14 Rodriguez say that she thought he was faking?

15 A. Initially, when he was calling for help,
16 but he was not going underwater.

17 Q. At any time, did she -- well, strike that.
18 What did you do next after you were
19 observing his head going underwater?

20 A. I know I relayed to again on the radio to
21 my officers what was happening so, that they new
22 that he was in the water further out and calling for
23 help.

24 Q. At this point, did you see any other

1 officers from Ephrata Borough in the area?

2 A. No.

3 Q. Did you see any other law enforcement
4 officer of any kind in that area?

5 A. The Ephrata community hospital, the
6 security, they were to my right, like they were one
7 or two officers, I would guess.

8 Q. And at any time, did you deploy your
9 taser?

10 A. No.

11 Q. On Andrew Good?

12 A. No.

13 Q. Did you see anyone deploy a taser on
14 Andrew Good?

15 A. No.

16 Q. In your performance of your law
17 enforcement duty, have you ever deployed your taser?

18 A. No.

19 MR. BOYLE: Asked and answered. You
20 can answer again.

21 THE WITNESS: No.

22 BY MR. BAIRD:

23 Q. And what were -- did you notice the
24 Ephrata Hospital security doing anything at this

1 point when Andrew's head was going under the water?

2 A. No.

3 Q. Were they calling out to him or -- that
4 you remember?

5 A. I don't remember.

6 Q. What did you do next?

7 A. I continued to call out for him to come to
8 shore, and then I on observed him staying underwater
9 longer and coming up and staying underwater longer
10 than he had those few seconds prior.

11 Q. At any time, did you have a belief that
12 Andrew Good was faking the -- his need for help?

13 A. Yes.

14 Q. You did?

15 A. Yes. I was unsure as to if he was or not.

16 Q. And the point when you had a belief that
17 he was -- he was faking, was that from what Sheriff
18 Rodriguez had told you, as well as your observation?

19 A. Yes.

20 Q. Tell me about that.

21 A. Well, I -- she said that she thought he
22 was faking, and I -- also, from what I was
23 observing, him calling for help but not going
24 underwater, I had that same thought and they were

1 with kind of simultaneous of each other.

2 Q. And at some point, did you change your
3 mind about that?

4 A. Yes.

5 Q. And what made you change your mind, what
6 did you observe to make your change your mind?

7 A. When he started staying underwater longer,
8 that's when my mind started changing to maybe he's
9 in distress.

10 Q. When you are standing on the embankment,
11 about how far across the creek is the other side of
12 the bank, if you can estimate?

13 A. My estimate was about 40 feet.

14 Q. Do you have any estimate as to how deep it
15 was there at that particular time of year?

16 A. I have no idea.

17 Q. After the date of the incident, have you
18 ever gone back to that place?

19 A. No.

20 Q. How long did it take from the time when
21 you had believed that Andrew had possibly been
22 faking his calls for help to the point where you
23 changed your mind about that, about how long did
24 that take?

1 A. I would say ten or ten seconds.

2 Q. And after you had changed your mind and
3 you observed him going underwater a little bit
4 longer, what did you do then?

5 A. I decided to take my gear off and go in
6 the water and I first relayed to my officers that I
7 was going in the water.

8 Q. Are you trained in water rescue?

9 A. No.

10 Q. What made you make that decision?

11 A. Because he was underwater, and he had not
12 come back up.

13 Q. What gear did you have to remove to go in?

14 A. My duty belt, which included my radio.
15 It's attached to my shirt. And I had my phone in my
16 side pocket. And that's what I took off.

17 Q. What else is on your duty belt?

18 A. I had my gun. I have two loaded
19 magazines, taser, handcuffs, a flashlight, my radio.
20 I forget if I said that. I think that's it.

21 Q. And then what did you do, can you explain
22 how you went into the water?

23 A. Yeah. I took that stuff off. I laid it
24 up on shore -- or on the shore, and then I stepped

1 into the water. It was kind of a step down a little
2 bit because it was kind of a like a drop to get in
3 there, and there was a log that was nearby. I
4 grabbed a hold of that.

5 Q. And did you try to walk out into the
6 creek?

7 A. Yeah. I started to walk out there, and
8 then it like dropped off.

9 Q. Did you swim?

10 A. Yeah.

11 Q. How far out did you swim?

12 A. To the location where I had seen him, just
13 below the surface, and that was probably 15 feet.

14 Q. Could you -- was he there?

15 A. No.

16 Q. Do you know where he -- what happened to
17 him?

18 A. No. I last had seen just like -- I could
19 see his -- like his chest because he wasn't wearing
20 a shirt, and I could see that just below the surface
21 as well as his head, and with -- the flashlights had
22 been shining on there from, I don't know, I guess
23 maybe the deputy, I don't know. I could see that.
24 But then once I got out there he was not where I

1 knew he was just a second prior.

2 Q. And was the current strong?

3 A. I don't feel that it was real strong, no.

4 Q. At any point, did you see him again?

5 A. I did see him again, yeah.

6 Q. Tell me about that.

7 A. Well, that was once he was pulled up from
8 the creek.

9 Q. And he was dead, correct?

10 A. Correct.

11 Q. And were -- did you assist in pulling him
12 out of the creek? Was that you?

13 A. No. I was out in a boat but not the boat
14 that pulled him up.

15 Q. Tell me about what you did next after you
16 swam to where he was, and you couldn't see him
17 anymore.

18 A. Other officers arrived at that time, and
19 another officer was taking his gear off to get in
20 the water, so I swam back to shore.

21 Q. At any time, did Sheriff Rodriguez enter
22 the water?

23 A. No.

24 Q. Who was the other officer who had entered

1 the water, do you remember?

2 A. It was Marcos Rodriquez.

3 Q. Is he still -- and what agency or --

4 A. Yeah. He's employed with Ephrata Police
5 Department.

6 Q. And he's still employed with Ephrata?

7 A. Yes.

8 Q. And at this point, there were other
9 officers shining flashlights into the water?

10 A. Yeah. To see him, like to light up the
11 water.

12 Q. Do you remember approximately how many
13 officers there were?

14 A. I'm not sure. I guess you would have to
15 be more specific with your questions. Are you
16 talking about when I entered the water, or after I
17 was already in there?

18 Q. When you were already in there, when you
19 were swimming, looking for him.

20 A. Okay. It was -- the deputy was there.
21 There was the security. I don't know whose
22 flashlights were shining. And at some point, like I
23 said, when I was in the water, other officers of
24 mine showed up.

1 Q. About how long did -- were you swimming
2 around trying to find him?

3 A. About three minutes.

4 Q. And then at some point, you mentioned that
5 you were in a boat?

6 A. Yes.

7 Q. Tell me how that happened.

8 A. Fire Rescue had arrived. It was around
9 8:20 or so after this initially occurred, and my
10 supervisor at the time, Officer Lucky, he got into
11 one boat with some of the firemen, and there was a
12 second boat that was about to launch and I asked if
13 they needed an officer for the second boat, and they
14 said they did.

15 Q. About how long did it take for Fire Rescue
16 and the other officers to find Andrew Good's body?

17 A. I'd say approximately 30 minutes.

18 Q. Do you know where he was found in
19 reference to where you had swam in?

20 A. Yeah. He was found right near where I had
21 last seen him underwater, like going under.

22 Q. And at this point, you're not sure how
23 deep that actually was there?

24 A. Correct.

1 Q. Did you have any information about
2 Andrew Good's previous criminal history at the time
3 of this incident?

4 A. I didn't know about his criminal history,
5 but I had known about two other incidents involving
6 him.

7 Q. And you knew that before you entered the
8 water trying to help him?

9 A. Correct.

10 Q. Tell me about those two other incidents
11 that you knew of.

12 A. The one incident I was not there for. I
13 just had heard from another officer with our
14 department, and that was approximately six months
15 prior and this officer was trying to make an arrest
16 of him, and he fled into the creek.

17 Q. And this happened approximately six months
18 before the April 14th incident?

19 A. That's my estimate, yeah.

20 Q. And how did you find out about that
21 incident?

22 A. Just through, I think, talking at shift
23 change, like a debriefing of that day.

24 Q. Do you remember the name of the officer

1 who Andrew had fled from?

2 A. Yes. It was Sergeant Eric Schmidt.

3 Q. Do you remember the location where Andrew
4 had fled from Officer Schmidt in the previous
5 incident?

6 MR. BOYLE: Objection. She testified
7 that she wasn't present, so how would she
8 remember the location?

9 MR. BAIRD: Sorry.

10 BY MR. BAIRD:

11 Q. Do you know what the location was where
12 Andrew had fled in this prior incident involving
13 Officer Schmidt?

14 A. It had been at or near the hospital.

15 Q. Do you know the circumstances of how or
16 what Officer Schmidt was -- why he was in custody or
17 why Andrew was in custody --

18 A. He.

19 MR. BOYLE: Wait until he finishes.
20 Are you done, Counsel?

21 MR. BAIRD: Yes.

22 MR. BOYLE: You can answer.

23 THE WITNESS: He wasn't in custody.
24 Sergeant Schmidt was attempting to take

1 him into custody.

2 BY MR. BAIRD:

3 Q. Were you thinking about this prior
4 incident at the time that you found out that
5 Andrew Good had fled from another officer from the
6 sheriff?

7 MR. BOYLE: Object to form.

8 But you can answer.

9 THE WITNESS: It was in my mind, just
10 because I know he had fled previously into
11 the creek.

12 BY MR. BAIRD:

13 Q. Do you remember anybody making a comment
14 about Andrew's body being like a sack of potatoes at
15 the time he was coming out of the water?

16 A. No.

17 Q. And you said that you had known about
18 another incident involving Andrew Good prior to
19 April 14th?

20 A. Yes.

21 Q. Can you tell me what you know about that
22 other incident?

23 A. The East Cocalico Police Department had
24 been involved in a pursuit somehow of him and

1 requested assistance from our department and myself
2 and Officer Lucky and Officer Hernizen had responded
3 to assist in locating him. It had turned into a
4 foot pursuit, which is what we responded to assist
5 with, a foot pursuit essentially.

6 Q. Did you ever apprehend Andrew?

7 A. No.

8 Q. Was he ever caught in that foot pursuit?

9 A. No. Not to my knowledge, no.

10 Q. How long before the April 14th, 2018
11 incident was that?

12 A. I don't remember. I believe it was -- I
13 believe that happened, though, after the initial
14 incident I told you about with Sergeant Schmidt.

15 Q. You had given an interview in this matter
16 on the night of the incident, correct?

17 A. Correct.

18 Q. All right. Did you have a chance to look
19 at that interview before your deposition today?

20 A. Yes.

21 Q. Is everything in there true and correct,
22 to the best of your knowledge?

23 A. Yes.

24 Q. Is there anything in there that's wrong?

1 A. No.

2 Q. That was a bad question.

3 MR. BOYLE: Not your worse, though.

4 BY MR. BAIRD:

5 Q. Did you ever -- and I apologize if I've
6 asked this already, did you ever discuss this
7 incident with Sheriff Rodriguez after it happened?

8 A. No.

9 Q. Do you ever hangout with Sheriff
10 Rodriguez, or are you friends with her?

11 A. No.

12 MR. BAIRD: I think those are all the
13 questions I have.

14 MR. MACMAIN: Officer, I have just a
15 few followup.

16 - - -

17 CROSS-EXAMINATION

18 - - -

19 BY MR. MACMAIN:

20 Q. As I introduced myself before the
21 deposition, I'm David MacMain and I represent Deputy
22 Sheriff Rodriguez, which is now Sheriff Gunnet. So,
23 if I call her Sheriff Gunnet I'm talking about the
24 same sheriff's deputy.

1 A. Okay.

2 Q. Just a few things.

3 So when you first saw Mr. Good, the only
4 part you were able to see that was above the water
5 was kind of the head?

6 A. Correct.

7 Q. So everything below the body you wouldn't
8 have seen if he was wearing clothing?

9 A. Initially, when it looked like he was
10 laying down, that's correct.

11 Q. You wouldn't have seen if he was
12 handcuffed, unhandcuffed, shackled?

13 A. Correct.

14 Q. And you wouldn't have seen if he had any
15 probes, taser probes, or anything on his body?

16 A. Correct.

17 Q. And when you first spotted Mr. Good, you
18 were with Sheriff's Deputy Gunnet, correct?

19 A. Correct.

20 Q. And you said the two of you were about
21 40 feet or so away from the creek?

22 A. Correct.

23 Q. And the entirety of the time that you and
24 Sheriff's Deputy Gunnet made your way from where you

1 spotted Mr. Good down to the creek, you were
2 together, correct?

3 A. Correct.

4 Q. And at any point during the time that the
5 two of you made your way down to the creek, did you
6 see anyone else besides Mr. Good?

7 A. There were the security from the hospital.
8 They were, I think, somewhere to my right but not
9 immediately with us. It was just her and I.

10 Q. But maybe I wasn't clear.

11 There was nobody else down near the creek
12 where Mr. Good was, he was down there himself?

13 A. Correct.

14 Q. At least from what you seen, there was no
15 one that could have pushed him into the creek?

16 A. Correct.

17 Q. Nobody there that could have clubbed him
18 with a stick and knock him into the creek?

19 A. No.

20 Q. Nobody tasered him into the creek.

21 A. Correct.

22 Q. And the entire time from you and the
23 Deputy Sheriff made your way from where you first
24 spotted Mr. Good down the creek, did you -- you

1 didn't see anybody enter the creek bed or the creek
2 bank, correct?

3 A. Correct.

4 Q. And Mr. Good was in your view the entire
5 time, correct?

6 A. Correct.

7 Q. At this point, did anybody taser Mr. Good?

8 A. No.

9 Q. At any point, did anybody throw a rock at
10 him or anything towards him while he was in the
11 water?

12 A. No.

13 Q. When you first met Sheriff Deputy Gunnet,
14 that was outside the wood line?

15 A. Mm-humm.

16 MR. BOYLE: Is that "yes"?

17 THE WITNESS: Yes..

18 BY MR. MACMAIN:

19 Q. And the two of you kind of made your way
20 into the woods looking for Mr. Good?

21 A. Yes.

22 Q. And she was with you the whole time?

23 A. Yes.

24 Q. And then at some point after you went to

1 the woods where you first spot Mr. Good, how long of
2 a time period, roughly, was that when you first
3 entered the woods until Deputy Sheriff Gunnet said,
4 "There he is"?

5 A. Within probably five seconds. She almost
6 immediately saw him upon us enter the woods.

7 Q. And I think you had said as you spotted --
8 you're making your way down, you're calling out for
9 him to get out of the water, correct?

10 A. Correct.

11 Q. And at this point, did he ever move to get
12 out of the water?

13 A. No.

14 Q. Now, you said you were familiar with at
15 least two prior times, one personally, one by
16 hearing it from other officers where he fled from
17 law enforcement?

18 A. Correct.

19 Q. And one of those times he fled and is
20 entering this same creek?

21 A. Correct.

22 Q. And you were asked some questions when you
23 were interviewed by the detectives from the
24 Lancaster County District Attorney's Office about

1 that prior incident, and you had recounted pretty
2 much what you had told us here today?

3 A. Correct.

4 Q. Did you think this whole point you were
5 asked about whether he was faking it, were you
6 concerned knowing his history that he may be trying
7 to lure you and the other law enforcement into the
8 water?

9 A. Yes.

10 Q. And that would be something that would of
11 concern to you and other law enforcement?

12 A. Yes.

13 Q. So this period of time when you hesitated,
14 part of it was concern that he may be laying in wait
15 or playing possum to try to entice the officers to
16 come in the water after him, correct?

17 A. Correct.

18 Q. And at the time you went in the water, it
19 was you and Deputy Sheriff Gunnet?

20 A. Immediately, right there, yes. There was
21 no other police officer there.

22 Q. Did you have any concern -- I know this
23 was happening quickly that you both took off of your
24 duty belts and waded into the water and Mr. Good got

1 out of the water, he now had access to your weapons?

2 A. I don't remember thinking that.

3 Q. Were you concerned if both of you went
4 into the water, there was no law enforcement on the
5 bank in case Mr. Good in fact overpowered you and
6 pulled you under the water and did something to
7 further his escape?

8 A. I can't say that I was thinking too much
9 about the deputy. I was thinking about how I was
10 supposed to respond.

11 Q. After the incident, did you have any
12 conversations with Kristi Good?

13 A. Yes.

14 Q. When was that?

15 A. I don't know how long after incident it
16 was.

17 Q. Can you tell me where that conversation
18 took place?

19 A. It was in Ephrata. I was responding to
20 like some non-emergency call to a store called
21 Complete Inbox. It's on North Reading Road, just
22 north of the hospital. I was leaving that store and
23 she saw me as I was about to get into my police car
24 and she kind of said, "You're in the parking lot

1 there."

2 Q. Tell me about the conversation.

3 A. So she approached me. I did not know who
4 she was. She introduced herself and thanked me for
5 doing what I could to save her son, and she said she
6 felt like I -- she said she felt like I was one of
7 the officers that had tried to save him.

8 Q. Any other conversation besides that?

9 A. No.

10 Q. Any other encounters with Ms. Good?

11 A. No.

12 MR. MACMAIN: I think I'm done. Just
13 give me a second. Those are all the
14 questions I have. Thank you.

15 MR. BOYLE: Anything else?

16 MR. BAIRD: No followup.

17 MR. BOYLE: Thank you, Officer. I
18 appreciate you coming in. I will walk you
19 out.

20 - - -

21 (Whereupon, the witness was excused
22 at this time.)

23 - - -

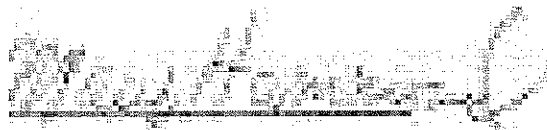
24 (Whereupon, the deposition concluded

at 10:44 a.m.)

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2 C-E-R-T-I-F-I-C-A-T-I-O-N
3 - - -

4 I hereby certify that the witness was
5 duly sworn in for this deposition matter
6 by the Court Reporter.

7
8 
9

Mary Hammond

10 August 18, 2020

11
12 (The foregoing certification of this
13 transcript does not apply to any
14 reproduction of the same by any means,
15 unless under the direct control and/or
16 supervision of the Registered Professional
17 Reporter.)
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- - -
ERRATA SHEET
- - -

INSTRUCTIONS: After reading the transcript of testimony, please note any change, addition or deletion on this sheet. DO NOT make any marks or notations on the actual transcript. (Use additional paper if needed and attach it to this sheet.)

Please sign and date this errata sheet and return it to the court reporting agency indicated below.

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vs.

Barbara Rodriguez-Santana, et al

Date Taken: August 18, 2020

Deposition of: Officer Beth Rivera

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

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- - -
ERRATA SHEET
- - -

INSTRUCTIONS: After reading the transcript of testimony, please note any change, addition or deletion on this sheet. DO NOT make any marks or notations on the actual transcript. (Use additional paper if needed and attach it to this sheet.)

Please sign and date this errata sheet and return it to the court reporting agency indicated below.

Case Name: Estate of Andrew Davis

vs.

Barbara Rodriguez-Santana, et al

Date Taken: August 18, 2020

Deposition of: Officer Beth Rivera

PAGE LINE CORRECTION

9 24 Delete this entire answer and replace with
"I was hired by the Ephrata Police Dept."

20 20 Change "is" to "in"

20 12 Remove question mark. This was a statement

27 6 Change "they" to "there" (the second "they")

26 7 Please add after this sentence, "I saw his
shoulders and chest just below the water surface
at this point.

Veritext Legal Solutions

215-241-1000 ~ 610-434-8588 ~ 302-571-0510 ~ 202-803-8830

| 1 | PAGE | LINE | CORRECTION |
|----|------|------|---|
| 2 | 28 | 8 | Remove "on" |
| 3 | 29 | 1 | Remove "with" |
| 4 | 33 | 2 | Change name spelling to "Rodriguez" |
| 5 | 36 | 2 | Change name spelling to "Schmitt" |
| 6 | 36 | 4 | " " "Schmitt" |
| 7 | 36 | 13 | " " "Schmitt" |
| 8 | 36 | 16 | " " "Schmitt" |
| 9 | 36 | 24 | " " "Schmitt" |
| 10 | 38 | 2 | " " "Hirneisen" |
| 11 | 38 | 14 | "Schmitt" |
| 12 | 43 | 6 | Change "enter" to "entering" |
| 13 | 45 | 24 | Remove quote "You're in the parking |
| 14 | | | lot there". She did not say this. Maybe |
| 15 | | | MacMain asked me this as clarification |
| 16 | | | or said it as reaffirming what I just |
| 17 | | | said, that I was in the parking lot. |
| 18 | | | |
| 19 | | | |
| 20 | | | Beth Rivera |
| 21 | | | Beth Rivera 9/13/20 |
| 22 | | | |
| 23 | | | |
| 24 | | | |

EXHIBIT E

FORENSIC PATHOLOGY
Lancaster County Coroner's Office

Dr. Stephen Diamantoni, Coroner
 Mr. Eric Bieber, Chief Deputy Coroner
 Dr. Wayne K. Ross, Forensic Pathologist

Lancaster County Forensic Science Center
 2080 Spring Valley Rd
 Lancaster PA 17601

POSTMORTEM REPORT

Name: **Good, Andrew D.** Age: **24** Race: **White** Sex: **Male**
 Autopsy: **ALC18-063/LC18-1020** Date: **04/16/2018** Time: **8:00 a.m.**
 Demise: Cause: **Fresh Water Drowning**
 Manner: **Accidental**
 Date Pronounced: **04/14/2018** Time Pronounced: **11:37 p.m.**

CASE INFORMATION:

The following narrative is based upon the case information available at time of autopsy and provided by Lancaster County Deputy Coroner, Ms. Shannon Blosser. The death of this individual, in light of the surrounding circumstances, comes under the jurisdiction of the coroner's office and a post mortem examination is performed to determine the cause and manner of death. The autopsy process utilizes the scientific methodology as part of the overall forensic analysis.

CORONER'S REPORT:

SCENE/HISTORY: This deputy spoke via telephone with Sgt. Snavelly, Ephrata Police Department who was on scene and reported death of above mentioned 24-year-old male who had been in custody of Lancaster County Sheriff's Department while at Ephrata Community Hospital, escaped custody, fled on foot, jumped into Cocalico Creek which was located to rear of Ephrata Community Hospital and subsequently died. Sgt. Snavelly reported that deceased was shackled and handcuffed and had reportedly escaped from Lancaster County Sheriffs custody and ran to rear of Ephrata Community Hospital where Cocalico Creek is located and dove in to creek.

Creek depth is estimated to be approximately 12 feet deep. Deceased had been unable to be located for some time but was then discovered unresponsive in water, retrieved and pulled out of creek onto shore. At time of preliminary telephone report Sgt. Snavelly was unable to answer the majority of this deputy's questions, indicating that he did not have the proper information at this point in time but that other sources on scene did.

This deputy arrived on location to rear of Ephrata Community Hospital 169 Martin Avenue Ephrata, PA 17522 tonight 4/14/2018 at 11:28 PM and was met outside by Officer Herneisen, Ephrata Police Department who indicated other officers were set up and staging at command post. Upon entering command post this deputy met with and interviewed Lt. Mckim, Sgt. Snavelly, Detective Schmitt, Officers Rivera, Albaugh and Martin, all with Ephrata Police Department. Throughout investigation

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Good, Andrew D. (ALC18-063/LC18-1020)

this deputy also met with and interviewed Jeff Krause and Jeff Bell, Lancaster County Detectives. Also noted to be in command post is Chief Deputy Bieber who is assisting this deputy with investigation. The following information was gathered upon interviewing Ephrata Police Department.

Apparently deceased, a 24-year-old male, has had previous run ins with law enforcement as Ephrata Police are readily familiar with deceased. Law enforcement indicated that Akron Borough Police Department were serving a bench warrant on deceased tonight 4/14/2018 for parole violation on a burglary charge. Apparently, there was physical interaction between law enforcement and deceased. Deceased fled from law enforcement to which deceased was tased multiple times and was tackled by law enforcement.

Once in police custody, deceased claimed he had hurt his shoulder from the physical scuffle and he was transported to Ephrata Community Hospital to be checked out. While at Ephrata Community Hospital, Lancaster County Sheriff's Department was contacted to come to Ephrata Community Hospital to take deceased into their custody and escort him to Lancaster County Prison once deceased had been examined by medical staff. While at Ephrata Community Hospital deceased repeatedly verbalized that he was not going back to prison.

Lancaster County Sheriff's Deputy Rodriguez-Santana took deceased into her custody after medical examination was completed. Deceased was placed in handcuffs which were secured to a chain around his waist. Deceased was also placed in ankle shackles but only one was placed and secured (around left ankle) with the right ankle shackle hanging free. Once deceased was ready to be escorted from Ephrata Community Hospital to Lancaster County Prison, he was walked out of hospital by Deputy Sheriff Rodriguez-Santana and a hospital nurse. Nurse only followed Deputy Sheriff Rodriguez-Santana and deceased part way out to waiting vehicle and then returned back into hospital. Once back inside hospital, nurse was told that deceased had managed to get out of Deputy Sheriff Rodriguez-Santana's custody and fled on foot to rear of Ephrata Community Hospital, in the direction of the Cocalico Creek.

Officer Rivera indicated both she and Deputy Sheriff Rodriguez-Santana walked along the bank of the Cocalico Creek searching for deceased. At this point in time it had become dark outside and lights were set up on the bank. Law enforcement finally were able to lay their eyes on deceased to which they called out to deceased. Deceased continued to float further and further out and finally began to call out for help.

Officer Rivera reported that deceased was seen bobbing up and down and went under water several times and was noted to remain under water for a longer period of time with each time he became submerged. Officer Rivera noted that she dove into water in search of deceased.

Pioneer Fire Company/Station 1 put a boat into the water with Officer Lucky in the boat in search of deceased. Deceased was finally located in a prone position in the creek at a depth of between 12-13

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feet. Deceased was pulled out of the creek by Pioneer Fire Company/Station 1 and Officer Lucky at 9:21 PM and brought to the bank of Cocalico Creek. Deceased was unresponsive and it was determined resuscitative efforts would be futile.

Detective Schmitt reported he had interaction with deceased last year sometime in the same general location as to tonight's incident. The interaction became physical and the two rolled down the hill with deceased escaping from Detective Schmitt. At this point in time deceased ran across Cocalico Creek from one bank of the creek to the other bank with ease; water level at this point in time was very shallow and easily maneuvered through by walking or running.

EXAM: Deceased, a young Caucasian male, is noted to be lying supine on bank of Cocalico Creek. Deceased's feet are several inches from the surface of creek. Deceased is laying in amongst some brush. Bank of creek is dirt with leaves and other natural materials mixed in. Creek bank is at base of fairly steep hill and is noted to be to rear of Ephrata Community Hospital property.

Deceased is partially clothed in a pair of blue jeans, boxer shorts, a belt, black socks bilaterally and black sneakers bilaterally. Deceased's wrists are noted handcuffed in front with hands resting on waistband of jeans. Handcuffs are attached to a metal chain which encircles deceased's waist at his abdomen/above waistband of jeans. Posteriorly, chain is noted doubled around. Ace bandage is noted wrapped around left wrist/proximal end of left forearm. Shackle is noted secured around left ankle and is attached to another shackle which is hanging loose (not attached to any part of deceased's body).

Taser wire is noted tangled on deceased's left sneaker. Two taser barbs with attached wire noted to posterior right upper extremity, superior to right elbow. Two additional taser barbs with attached wire noted to lower back, one at his thoracic region and the other at the lumbar region.

Photographs taken of scene and remains by this deputy using a Nikon D7000 camera and 18-105mm lens. Deceased was rolled by Chief Deputy Bieber when the time was appropriate.

Temperature of creek is 59 degrees Fahrenheit. Depth of creek is between 12 and 13 feet deep. Ambient temperature is 66 degrees and breezy.

HEENT: Head region palpated and visually examined. No trauma/deformities noted. No blood noted to my gloves. Skin cool and dry to the touch. Blood noted on right ear. Abrasion noted to right forehead. Abrasions and blood noted to lips bilaterally. Multiple abrasions noted to tip of nose. No other facial trauma noted. Superficial scratch noted to anterior-neck. No other anterior neck trauma noted. Mottling noted to posterior neck. Pupils fixed, dilated and non-reactive to external stimulus. Petechial hemorrhages noted bilaterally. Sclera noted to be hemorrhaged and injected bilaterally. Blood noted draining from nares bilaterally. Upper dentition noted to be in poor condition. Clear fluid noted draining from right side of oral cavity. No rigor mortis noted in jaw at time of exam.

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THORAX: Tattoo of "Rosie" and a rose to upper right thorax. Tattoo of skull with flames noted to upper left thorax. Mottling noted to upper thorax posteriorly. Superficial scratches noted inferior to right nipple. No other trauma noted to thorax. No trauma noted to back. Livor mortis noted posteriorly dependent appropriate for position of deceased and is blanchable.

ABDOMEN: Cool and firm to the touch. No trauma noted to abdomen. No trauma noted to back. Livor mortis noted posteriorly dependent appropriate for position of deceased and is blanchable.

EXTREMITIES: Upper extremities unclothed. Lower extremities clothed. Mottling noted to bilateral upper extremities. Superficial abrasions noted to left upper shoulder. Superficial scratches and road rash noted to right upper shoulder posteriorly. "Buddha" tattoo with image noted to right upper extremity. Cross tattoo noted to right ventral forearm. Superficial scratches and abrasions noted to right posterior elbow/right posterior upper extremity proximally. Superficial scratches noted to right forearm. Skull tattoo noted to upper left extremity. Tattoo noted to anterior right hand. Multiple tattoos noted to each knuckle, anteriorly. No rigor mortis noted in extremities at time of exam.

LIVOR MORTIS: Posteriorly dependent appropriate for position of deceased and is blanchable.

RIGOR MORTIS: None noted at time of exam.

Consult with Chief Deputy Bieber. Deceased transported to Lancaster County Coroner's Office by Deputy Transporter Don Harrod for further medical evaluation. Electronic death certificate completed by this deputy via EDRS system. Cause of death is Pending, manner of death is Pending, date of death is 4/14/2018 and time of death is 11:37 PM. No funeral home chosen at this time.

Per telephone conversation with Kristi Good, mother/next of kin of deceased she reported deceased had recently (within the past two weeks) gotten out of Cove Forge Behavioral Health Center, a rehabilitation facility in Gettysburg for drug usage. Mother indicated deceased had a history of using heroin. Mother also noted that deceased has had multiple run ins with law enforcement in the past and has been arrested on multiple occasions for probation violation, theft, assault on police officer and simple assault. Mother indicated deceased was not presently employed and had been staying with her part of the time since getting out of rehabilitation and had been staying with a neighbor for part of the time. Mother indicated she last saw deceased this evening prior to Akron Borough Police Department serving deceased his bench warrant.

FORENSIC EXAMINATION OF BODY:

- CLOTHING:
 - The body is received in a black disaster bag on top of a white sheet.
 - He is wearing blue jean trousers, zippered and buttoned appropriately, drenched with water.
 - Red/blue striped boxers, water-drenched.
 - Black shoe, off the right foot.

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- Black sock, water-drenched, left foot.
 - Black shoe, left foot, water-drenched. Grass debris is noted in the laces. Soil transfer noted at the toe region.
 - Black sock, water-drenched, right foot.
 - Ankle cuff is attached to left lower leg; right ankle cuff is attached to a shackle and is open.
 - Taser wire, wrapped around left ankle cuff. Probe is not appreciated.
 - Handcuffs, tightly cuffed to both wrist regions in front of body. A chain shackle is attached to both handcuffs, wrapped once around; a second section is wrapped twice and attached to the pin on the left side; the pin is noted in the front. The handcuff overlies a bandage noted on the left wrist.
 - The ankle shackle is removed and the taser wire is wrapped around the actual ankle cuff. It is photographed.
 - The cuff lock was not activated on the left handcuff; the right handcuff was locked. Once the handcuff was removed on the right side, a significant pressure mark is noted over the right wrist region.
 - Two probes are noted to the back of the right arm; two probes are noted to the left mid-back and left lower back. The two probes to the back of the right arm have wires attached; the probe to the left mid-back has a wire attached, but the probe to the lower back does not have a wire attached; that wire is noted around the left ankle. The back of the chain has a clip which is attached to a chain link in the back.
 - While removing the shackles, multiple photographs are obtained showing how shackles/cuffs were fastened together. Upon removal, there are pressure marks noted to the abdomen as well as the back region from the chain link.
 - There is an extensive amount of green leafy material, scratch marks, grass, soil stains, linear abrasions noted to the left upper back; circular abrasions to the mid-upper back; large scuff-mark abrasion to the right shoulder.
- MEDICAL EFFECTS:
 - ID tag, right 1st toe.
 - EKG patch, inner right lower leg.
 - TATTOOS ON BODY:
 - Tattoo of the name Nicole, right upper arm.
 - Tattoo of Rest in Peace Buddha, right upper arm.
 - Tattoo of the word Country, back of right hand.
 - Tattoo of the word Fuck extending from the little finger to the 4th, 3rd and 2nd fingers.
 - Tattoo of a name, right forearm.
 - Tattoo of a cross, right forearm.
 - Tattoo of the letters EW, right wrist.
 - Tattoo of a skull, right lateral chest.
 - Tattoo of the name Rosie, right upper chest.

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- o Tattoo of a skull with fire, left upper chest.
- o Tattoo of a heart and initials CK, left upper chest.
- o Tattoo of 3 skulls, left upper arm.
- o Tattoo of the name Kristi, left mid-axillary line.
- o Tattoo of the word Fear extending from the left index finger to the left little finger.

• **BODY BUILD AND DECOMPOSITIONAL CHANGES:**

This is the unembalmed body of a well-built muscular white male who measures 70" and weighs 213 +/- pounds. There is generalized rigor mortis and posterior, fixed, purple lividity. No other decompositional changes are noted, and the overall appearance of the body is compatible with the stated age.

• **EXAMINATION OF BODY:**

Head: The face is plethoric. The head hair is blonde/brown and short. There is a blonde/brown mustache and beard. The irides are hazel. The eyes are congested. There is no evidence of petechial hemorrhages or scleral icterus. The nose shows no evidence of septal perforations. Bloody fluid is noted about the nose and on or about the lips. White froth is noted in the mouth. The inner oral cavity shows upper and lower dentition in poor condition; multiple teeth are missing. Dental caries or dental amalgams are appreciated in the teeth. Blood is noted around the right and left ears.

Neck: The neck is plethoric. The trachea is midline. Bilateral jugular venous distention is noted.

Chest, Abdomen, and Back: Plethoric changes are noted to the upper chest. The chest is symmetrically developed and of a normal AP diameter. The abdominal region is free of palpable organomegaly.

Upper Extremities: The upper arms, forearms, and hands are examined. The hands are well formed.

Lower Extremities: The lower extremities are examined. The feet are well formed.

External Genitalia/Ano-Rectal Region: The external genitalia display normal adult features. The ano-rectal region is without note.

• **EVIDENCE OF INJURY AND OTHER ABNORMALITIES:**

- o Head:
 1. Abrasion, polygonal shape, overlying right forehead, fresh, 1" x 1 1/2".
 2. Abrasion, linear, right forehead, fresh, 1" x 1/8".
 3. Abrasion, circular, mid-forehead, fresh, 1/4" x 1/4".
 4. Abrasion, linear, left forehead, fresh, 5/8" x 1/8".
 5. Abrasion, circular, right central upper forehead, fresh, 1/8" x 1/8".
 6. Plethoric changes, face.

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7. Blood around nose and lips.
8. Abrasion, right lateral distal end of nose, fresh, $\frac{1}{4}$ " x $\frac{1}{4}$ ".
9. Abrasions, multiple left side of nose, fresh, $\frac{3}{4}$ " x $7/8$ ".
10. Froth in mouth.
11. Dried blood, upper and lower lips.
12. Abrasions x 2, punctate, $1/8$ " x $1/8$ ", left lower lip.
- o Neck:
 1. Plethoric changes, neck.
 2. Bilateral jugular venous distention.
 3. Abrasion, linear, left central region of neck, fresh, $1 \frac{1}{4}$ " x $1/16$ ".
- o Chest, Abdomen, and Back:
 1. Multiple linear abrasions, right lateral chest, beneath left breast and nipple area, 2 " x $1 \frac{3}{4}$ ".
 2. Abrasions, multiple, irregular shaped, left upper shoulder, fresh, in an area measuring $1 \frac{1}{4}$ " x 1 ".
 3. Abrasions, multiple, linear and irregular shaped, anterior left upper shoulder, fresh, in an area measuring $2 \frac{3}{4}$ " x $1 \frac{1}{2}$ ".
 4. Abrasions x 2, punctate, $\frac{1}{4}$ " x $\frac{1}{4}$ ", left lateral chest.
 5. Contused abrasion, fresh, left lower quadrant of abdomen, $1 \frac{1}{2}$ " x $2 \frac{1}{2}$ ". The abrasion is linear; the contusion is red/pink.
 6. Abrasion, linear, left upper back, fresh, $2 \frac{3}{4}$ " x $\frac{1}{4}$ ".
 7. Abrasion, circular, right upper back, fresh, in an area measuring $\frac{3}{4}$ " x $\frac{3}{4}$ ".
 8. Abrasions, multiple, parallel, vertically oriented, fresh, right upper back, in an area measuring 4 " x 5 " with extension to the right shoulder.
 9. Grass/soil transfer, pressure marks, blanch marks, chain marks from shackles, lower back region.
 10. Probe, left mid-back and left lower back.
 11. Soil/grass transfer, leafy material, back region.
 12. Two vertically oriented impressions/pressure marks/abrasions, left upper back/shoulder region.
- o Upper Extremities:
 1. Contused abrasion, ill-defined, 2 " x 2 ", left upper outer arm.
 2. Erythematous area, back of left forearm, 2 " x 2 ".
 3. Contusion, dark red, $\frac{1}{2}$ " x $\frac{1}{2}$ ", back of left upper arm.
 4. Contusion, base of left thumb/back of hand/back of left 2nd, 3rd, 4th, 5th knuckles, in an area measuring 3 " x 4 ".
 5. Superficial laceration/tear, $\frac{1}{4}$ " x $\frac{1}{4}$ ", left hand/base of left 3rd finger.
 6. Pressure marks from handcuff, abrasion, linear, left wrist region, 4 " x $1/8$ ".
 7. Abrasions, multiple, circular, irregular shaped, back of left elbow region, in an area measuring $2 \frac{1}{4}$ " x 3 ".
 8. Two probes, back of right arm.
 9. Multiple abrasions, right elbow region, in an area measuring 3 " x 3 ".

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10. Abrasion, brush-burn type, right forearm, in an area measuring 4 5/8" x 1 1/2".
11. Multiple abrasions, back of right forearm/wrist region, in an area measuring 3 1/2" x 2 1/2".
12. Pressure marks from handcuff, irregular and linear scar, back of right forearm.
13. Multiple abrasions, back of right upper arm, in an area measuring 1" x 1".
14. Abrasion, linear, fresh, right antecubital fossa, medial region, 1 1/2" x 1/4".
15. Other irregular shaped abrasions, right mid-upper forearm, measuring 1" x 2".
16. Multiple abrasions, linear, transverse, right upper arm, measuring 1" x 3/4".
17. Abrasion, circular, 1/4" x 1/4", right lateral forearm.
18. Abrasion, brush-burn type, right shoulder, with extension to right back, in an area measuring approximately 7" x 4".
19. Multiple parallel abrasions, right upper shoulder, fresh, measuring 1" x 3/4".
- o Lower Extremities:
 1. Multiple red marks on or about the lateral right knee and medial right knee compatible with contusions; laterally measures 2 1/4" x 1", medially is 3/4" x 1".
 2. Multiple contusions x 5, anterior right lower leg, in an area measuring approximately 8" x 2 1/2".
 3. Abrasion, anterior right lower leg, 1/4" x 5/8".
 4. Elliptical scar, anterior right lower leg.
 5. Contusions x 2, right syndesmosis, in an area measuring 1 3/4" x 1/4".
 6. No overt pressure marks noted from ankle cuff or other.
 7. Contused abrasions, overlying left knee, in an area measuring 2" x 3".
 8. Multiple contusions, anterior lower leg, upper leg, in an area measuring 3 1/2" x 2".
 9. Multiple parallel transverse contusions, anterior left lower leg, anterior syndesmosis, left lateral malleolus, in an area measuring 2 1/2" x 4".
 10. Erythematous mark, parallel, red, left ankle region.
- o External Genitalia and Ano-Rectal Region:
 1. Intact.

INTERNAL EXAMINATION OF THE BODY, ORGAN SYSTEMS:

- ORGAN WEIGHTS & FLUID VOLUMES:

| | | |
|---------------|-------|-------|
| Brain: | 1,596 | Grams |
| Heart: | 440 | Grams |
| Right lung: | 652 | Grams |
| Left lung: | 582 | Grams |
| Liver: | 2,431 | Grams |
| Spleen: | 224 | Grams |
| Right kidney: | 116 | Grams |
| Left kidney: | 160 | Grams |

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Stomach Contents:

- 215 grams of creek-smelling water and partially digested food, brown appearance.

Gallbladder:

- Bile is present.

Urinary Bladder:

- Urine is present.

Abnormal Fluid Collections:

- Pericardial Sac: None
- Right Thoracic Cavity: None
- Left Thoracic Cavity: None
- Abdominal Cavity: None
- Sphenoid Sinus: A couple cc of creek-smelling fluid

Fractures:

- Head: None
- Neck: None
- Chest: None
- Pelvis: None

• **HEAD AND CENTRAL NERVOUS SYSTEM:**

The skin of the scalp is reflected in the usual manner, and there is no evidence of soft tissue trauma to the scalp other than a contusion to the right lateral parietal and right posterolateral superoparietal regions of the scalp. The calvarium is intact; and upon its removal, there are no abnormal fluid collections noted to the epidural, subdural or subarachnoid spaces. The dura is clean and glistening. The superior sagittal sinus is patent. The leptomeninges are translucent. The cerebral convexities are examined and show edema, but no evidence of asymmetry, atrophy, softening, or hemorrhage. The circle of Willis is intact. The uncus, cerebellar tonsil, and cingulate gyrus regions are examined. There are bilateral uncus grooves. No cerebellar tonsillar cones. The cingulate gyrus is not shifted. Gross examination of the brain stem and cerebellum is performed.

Coronal sectioning of the brain demonstrates an intact cortical gray ribbon and centrum semiovale. The basal ganglia and thalamus are unremarkable, and the ventricular system is not dilated. The mammillary bodies are without note. The hippocampi and pineal gland show no abnormalities. The substantia nigra is depigmented, and the cerebral aqueduct is not dilated. The pons is examined. The fourth ventricle is examined. The inferior olivary nucleus and the remainder of the medulla oblongata are examined. The cerebellar folia are well formed. The dentate nucleus is unremarkable bilaterally. The pituitary gland is obtained and shows no abnormalities. The dura is reflected from the basilar portion of the skull and there is no evidence of basilar skull trauma. The sphenoid sinus is opened and there is a large cyst within same. Beneath that are a few cc of creek-smelling fluid.

• **NECK:**

The skin of the neck is dissected up to the angle of the jaw. The anterior strap muscles are without evidence of hemorrhage. The hyoid bone, thyroid cartilage, cricoid cartilage and thyroid

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are intact. There is no evidence of aspirated gastric contents, food particles, or foreign bodies noted within the neck lumen. White froth is noted in the neck lumen.

- **CHEST AND ABDOMEN:**

The skin of the chest and abdomen is opened with the usual, Y-shaped incision and demonstrate moderate amounts of yellow subcutaneous adipose tissue at the level of the umbilicus. Upon removal of the chest plate, various organs are examined in situ and/or are removed by the Virchow technique for serial examination. These organs are of intrinsically normal size, morphology, and anatomic position for this age and sex individual with no trauma noted to the organs of the chest or abdomen.

- No contusions, heart.
- No contusions, lungs.
- Frothy, pulmonary edema and fluid, lungs, compatible with drowning.
- Water identified in stomach, compatible with drowning.
- Liver, spleen, right and left kidneys, intact.

- **CARDIOVASCULAR SYSTEM:**

- Heart: All vessels originate from, or terminate in, the usual portions of the heart. The coronary arteries are mildly serpiginous. The following atherosclerotic changes are noted: left main artery (0%), left anterior descending artery (0%), circumflex artery (0%), and right coronary artery (0%). The coronary ostia are patent. The cardiac chambers are examined. There is evidence of cardiomegaly, left ventricular hypertrophy and borderline right ventricular hypertrophy. The right ventricle measures 5 mm up to 6 mm laterally, the left ventricle measures 2 cm. The left intraventricular distance measures 2 cm; the right intraventricular distance measures 3 cm. There are no interatrial or interventricular defects. All the valves are freely mobile. The chordae tendineae, papillary muscles, and myocardium are examined. The endocardial surface is clean and glistening. The epicardial surface is without abnormalities and displays a normal amount of fat. The pericardial sac is clean and glistening and free of adhesions.
- Aorta/Blood Vessels: The root, arch, and descending aorta are examined. The aorta is intact.

- **RESPIRATORY SYSTEM:**

- Lungs: The tracheobronchial tree, pulmonary vasculature, and hilar regions are examined. The lung parenchyma shows pulmonary edema and congestion. Water is identified in the bronchi. The parietal and visceral pleura are examined. The hemidiaphragms are well formed bilaterally.

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- **HEPATOBIILIARY SYSTEM:**
 - The liver capsule is clean and glistening and free of adhesions. The liver shows hepatomegaly and diffuse fatty change. The liver parenchyma is golden-brown in color. The gallbladder is intact. There is no evidence of obstruction of the ducts. No stones or cholecystitis are noted.
- **SPLEEN:**
 - The splenic capsule is intact and has a normal purplish hue. On sectioning, the parenchyma is without note.
- **PANCREAS:**
 - The pancreas has a normal club shape and firm consistency. On sectioning, it has a tan lobulated parenchyma. Hemorrhagic changes are noted to the pancreas.
- **BONE MARROW:**
 - The bone marrow is red in color and gritty in texture.
- **LYMPHATIC SYSTEM:**
 - No lesions are identified.
- **URINARY SYSTEM:**
 - The kidney capsules strip with ease and reveal normal fetal lobulations. The medullary rays are hyperemic. The pelvic regions are unremarkable. The urinary bladder mucosa is grossly without note.
- **REPRODUCTIVE SYSTEM:**
 - The prostate gland is intact.
- **GASTROINTESTINAL SYSTEM:**
 - The esophageal mucosa is clean and glistening. The GE junction is patent. The stomach wall is normally rugated. The pyloric sphincter is patent. There is no evidence of gastritis. The small and large bowels are anatomically correct and normally oriented. There is no evidence of volvulus or infarction.
- **MUSCULOSKELETAL SYSTEM:**
 - The muscles show no significant gross abnormalities. The skeletal system is without evidence of natural disease.
- **ENDOCRINE SYSTEM:**
 - Adrenal Glands: There is no evidence of hyperplasia or tumor in the adrenal glands.
 - Thyroid Gland: The thyroid is symmetrical and full bilaterally.

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ADDITIONAL FORENSIC PROCEDURES:

- Subclavian blood, vitreous, urine, gastric contents, and liver are sent for toxicology to National Medical Services. The Chain of Custody number is ALC18-063/LC18-1020.
- Tissue is retained for histology, which is not processed.
- Urine is submitted for a TLC presumptive drug screen and is positive for THC and Oxycodone.
- Glucometer reading is 163, which represents hyperglycemia.
- A purple top tube of blood and DNA card are collected.
- The handcuffs, corresponding shackle and the ankle holders are forwarded with the police department.
- Four probes are recovered, designated origins of the body, and forwarded with police department.
- All clothing and Ace wrap from left forearm are forwarded with police department.
- A purple top tube of blood is forwarded with the police department.
- CD card is supplied to Jeff Bell.
- Photographs are taken by the coroner's office.
- The following are in attendance:
 - Katie Kelly, Autopsy Assistant
 - Eric Bieber, Lancaster County Chief Deputy Coroner
 - Shannon Blosser, Lancaster County Coroner's Office
 - Dr. Stephen Diamantoni, Lancaster County Coroner
 - Jeff Bell, CID, Lancaster City Police Department
 - Dr. Wayne K. Ross, Prosecutor

OVERALL FORENSIC ANALYSIS:

As per the scientific method, our office performed a forensic analysis including traumatic, disease, and toxicology causation analysis. After review of this information, we can offer the following conclusions:

- **PAST MEDICAL HISTORY ANALYSIS:**
 - Past Medical History: drug use.
 - Past Medication History: unknown.
- **TOXICOLOGY CAUSATION ANALYSIS:**
 - The post mortem levels indicate the following:

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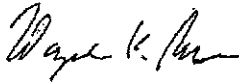
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Positive Findings:

| <u>Compound</u> | <u>Result</u> | <u>Units</u> | <u>Matrix Source</u> |
|-----------------------------|---------------|--------------|------------------------|
| Delta-9 Carboxy THC | 8.8 | ng/mL | 001 - Subclavian Blood |
| Delta-9 THC | 3.8 | ng/mL | 001 - Subclavian Blood |
| Ethanol | 13 | mg/dL | 004 - Urine |
| Delta-9 Carboxy THC - Total | 170 | ng/mL | 004 - Urine |
| Oxymorphone - Free | 5.5 | ng/mL | 004 - Urine |

OPINION:

After autopsy and forensic causation analysis, it is my opinion that the cause of death is **Fresh Water Drowning**. The manner of death is **Accidental**.



Wayne K. Ross, M.D.

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